

**CM/GC CONSTRUCTION CONTRACT  
DENVER 911 COMMUNICATION CENTER RELOCATION**

**CONTRACT AND AGREEMENT**

**THIS AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **FCI CONSTRUCTORS, INC.**, a Colorado corporation, with its principal place of business located at 4015 Coriolis Way, Frederick, Colorado 80504 “the Contractor”, jointly “the parties.”

**RECITALS**

1. The City wishes to construct a new 911 Communication center at 12025 E. 45<sup>th</sup> Avenue.

Denver 911 Communication Center Relocation  
Project No. PWFAC2015-056  
CONTRACT CONTROL NO. 201736327  
(the “PROJECT”)

2. In furtherance of the Project, the City has contracted with OZ Architecture Design Collective (the “Designers or Design Consultants or Consultant Team”) to perform professional architectural and engineering design services for the programming and design of the Project.

3. Pursuant to Section 20-56 of the Denver Revised Municipal Code, the City commenced on March 21, 2016, and advertised for at least three (3) consecutive days, the City’s solicitation for qualification submissions from qualified contractors for the Project.

4. The City’s solicitation sought a contractor to furnish all Construction Manager/General Contractor (“CM/GC”) preconstruction and construction experience, expertise and services; and all construction administration, management, supervision, coordination and project construction experience and expertise; and all construction services, work effort, labor, tools, supplies, manufactured components, equipment, materials, and everything else necessary and required to assist in the Project design and to complete the construction of the Project on an expedited basis and within budget; while satisfying the City’s longstanding commitment to quality, efficiency, value, innovation, partnering, responsiveness to agency and community needs and compliance with all applicable regulatory requirements in the performance of general public improvements.

5. Submissions received pursuant to said advertisement were evaluated and formal proposals were requested from selected firms best meeting the City’s qualifications criteria for this Project.

6. Proposals received were evaluated and ranked by a selection committee and a recommendation was made to the Executive Director of Public Works who evaluated the Proposals and recommended that a contract or contracts for performance on the Project be made and entered into with the above named Contractor.

7. Based upon that ranking, the City and the Contractor entered into a Preconstruction Services Agreement, Contract No. 201628868, dated August 16, 2016, to perform preconstruction services.

8. In accordance with the terms and conditions of the Preconstruction Services Agreement, the Contractor has reviewed the Project Site and design documents and has performed constructability, availability, scheduling and cost estimating analysis on design documents prepared for the Project.

9. Based on this performance, the Contractor is thoroughly informed about the Project and the Project design. Contractor has submitted and the City has accepted a GMP to construct the project.

10. As a consequence of the Project's time limitations and in order to maintain the existing Project schedule, the Contractor and the City now desire to enter into a Construction Manager/General Contractor contract (the "Construction Contract") for a Guaranteed Maximum Price (the "GMP") for all of the Work necessary to complete the Project.

11. The Contractor is willing, able and has the present capacity to perform the construction phase services, as an independent contractor, in accordance with this Construction Contract, said advertisement, the preconstruction agreement and the referenced selection documents.

**NOW THEREFORE**, in consideration of the compensation to be paid the Contractor, the mutual agreements hereinafter contained, and subject to the terms hereinafter stated, it is mutually agreed as follows:

## **1.0 PROJECT SUMMARY AND DEFINITIONS:**

1.1 **Project.** The "Project" as used herein shall mean the:

Denver 911 Communication Center Relocation Project

1.1.1 The Project is located at the "Project Site" 12025 East 45<sup>th</sup> Avenue Denver, CO.

1.1.2 The specific details of the Project are more particularly set forth in Denver 911 Communication Center 100% Construction Documents prepared by the Designer and dated June 2, 2017.

1.1.3 The Project shall be comprised of the following:

1.1.3.1 **Guaranteed Maximum Price (GMP) Work.** The GMP proposal provides all necessary labor, materials and equipment necessary to complete the work more particularly set out in the Contract Drawings, Technical Specifications and the Contractors GMP Proposal.

1.1.4 **Contractor Selection.** In accordance with the requirements of Section 20-56 of the Denver Revised Municipal Code (the "**DRMC**"), the City implemented and completed a competitive selection process to identify qualified Contractors to perform both preconstruction and construction services for the Project. The Contractor was selected as the first ranked proposer to perform such services for the City as set forth in the City's Request for Proposals (RFP) dated May 12, 2016; and the Contractor's RFP Submittal dated May 27, 2016. In referencing these solicitations and submissions herein, the City and the Contractor acknowledge that the scope of the Project, as presented and addressed by these documents, has materially evolved since the issuance of these documents and that some information presented will not be applicable to this Construction Contract or the Project.

1.2 **Budget.** The Contractor acknowledges and accepts that there are limited funds available to design and construct the Project. The Project construction budget (the "Budget") is **TWELVE MILLION EIGHT HUNDRED FOUR THOUSAND NINE HUNDRED EIGHTY-FOUR DOLLARS AND FIFTY-SIX CENTS. (\$12,804,984.56)**, and is subject to increase or decrease at the

sole discretion of the Manager of Public Works. The Contract further acknowledges and accepts that the GMP Work must be completed within the construction budget. As part of this acknowledgment and acceptance, the Contractor shall at all times cooperate fully with the City and the Design Consultant to develop the Project and its various components for construction and ultimately construct the Project so as not to exceed the limited funds available in the Project Budget.

**1.3 Project Format.** In the performance of this Construction Contract, the Contractor acknowledges and accepts that, scope and schedule are critical for Project delivery. Based on these considerations, the City has elected to utilize a Construction Manager/General Contractor (“**CM/GC**”) project delivery approach and will fast track the Project.

**1.3.1** The Contractor is familiar with this approach and understands that the CM/GC method is a specialized and rigorous delivery approach requiring maximum cooperation between all parties. As a consequence of the delivery approach, the Contractor acknowledges and accepts the following: (1) that the complete services to be rendered by the Contractor, the organizational and process inter-relationships governing construction and the construction cost, schedule and sequencing are either in the developmental stage or have not yet been fully defined; and (2) that portions of the Project could have their design completed as separate phases.

**1.3.2** In preparing and submitting the GMP Proposal, the Contractor understands, confirms and agrees that its responsibility under this CM/GC approach is to construct the Project in accordance with the Contract Documents. It is further understood and accepted that because the GMP will be based, in part, on incomplete design documents, the Contractor shall exercise reasonable care and its best diligence, efforts and judgment to determine the intent of the most recent Project design documents, has or will have carefully considered this intent, both express and inferable, in calculating the GMP and has or will have based all of its GMP calculations on the Scope of Work, program and standards of workmanship, and quality of construction, equipment, materials and finishes that can be inferred from the most recent design documents and any documented Project expectations and/or requirements provided to the Contractor.

**1.3.3** Subject to any allowed contingency provided for in Section 1.5, the Contractor further acknowledges and agrees the GMP fully accounts for any risks associated with failing to consider the design intent reasonably inferable from the Contract Documents. The Contractor has documented in the Basis of the GMP Proposal and provided or will provide to the City any and all clarifications regarding the design intent, including the intended level of quality of the Project. No GMP increase or extension of the Contract Time will be allowed to account for any assumption, exclusion and clarification the Contractor failed to document or for any other item of Work covered by the Contract Documents that the Contractor failed to account for in its GMP.

**1.4 Allowances.** The allowances set forth in the GMP Proposal have been accepted by the Project Manager. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the City may direct, but the Contractor shall not be required to employ any persons or entities against which the Contractor may make reasonable objection. The Contractor may also supply allowances for those items the Contractor and the Project Manager mutually determine require an allowance. **Exhibit N** (GMP Proposal) sets forth all allowances applicable to the Work. Unless otherwise provided for in the Contract Documents:

**1.4.1** Materials and equipment under an allowance shall be selected promptly by the City to avoid delay in the Work;

**1.4.2** Allowances shall cover the cost to the Contractor of materials and equipment delivered at the Project site and all required taxes, less applicable trade discounts;

**1.4.3** Contractor's costs for unloading and handling at the Project site, labor, installation costs, and other expenses contemplated for the stated allowance amounts are included in the allowances. However, Contractor's home office overhead and profit for all allowance items are included in the Contractor's Fee and are not in the allowance; and

**1.4.4** Whenever costs are more than or less than the allowances, the GMP shall be adjusted accordingly by change order. The amount of the change order shall reflect the difference between actual costs and the allowances. If actual costs exceed allowances, the change order shall include Fee on the difference in accordance with allowable Contractor Fee under the Construction Contract.

## **1.5 Contingency.**

**1.5.1 Construction Contingency Amount.** The GMP will include a construction contingency in an amount equal to a lump sum of **THREE HUNDRED FORTY EIGHT THOUSAND TWO HUNDRED THIRTY-SEVEN DOLLARS AND NO CENTS (\$348,237.00)** ("GMP Contingency") for the entire scope of the GMP Work

**1.5.2 Contingency Accounting.** The GMP Proposal is not a line item GMP. During the course of the Work, some GMP line items may exceed the estimated amounts and others may under run the estimated amounts shown in the GMP Proposal without impacting the overall GMP. The Contractor may charge to the Contingency any costs which are properly reimbursable as Cost of the Work, but not the basis for a Change Order. These costs may include costs attributable to errors and omissions by the Contractor; costs to correct defective, nonconforming or damaged work; costs generated from clarification of the Contract Documents; costs for code changes or code upgrades required by governmental agencies which are not otherwise the basis for a change order; overtime and acceleration costs to meet contract schedule; and costs, including legal fees, for contractual disputes, with parties other than the City. The Contingency shall be increased to the extent that there are underruns in budget items included in the GMP. The Contractor shall notify the Project Manager, in writing, of each such charge to or credit of the contingency prior to taking such action and shall provide a periodic reconciliation of contingency credits and expenditures in a format acceptable to the Project Manager.

**1.5.3 Contingency Management.** The Contractor acknowledges that, subject to available funding, it is the desire of the City to incorporate as many additional Work items into the Work as reasonable or otherwise increase the Work to be performed by the Contractor to enhance the Project. The Contractor agrees to accept a mutually agreeable reduction of the contingency whenever the City and the Contractor reasonably agree that the Project risk is substantially decreased and such agreement shall not be unreasonably withheld.

**1.5.4 Owner's Contingency Amount.** The GMP will include an Owner's Contingency in an amount equal to a lump sum of **TWO HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$250,000.00)** ("Owner's Contingency"). Adjustments to owner's contingency to be made by written agreement.

**1.5.5 Owner's Contingency Accounting.** The Owner's Contingency will be used at the sole discretion of the City for changes to the scope of work that are initiated and requested by the City, unforeseen conditions and for overruns in Allowances. This contingency shall not be used for any other purpose other than scope changes initiated by the City. Any unused portion of this Owner's Contingency shall be returned to the City upon project completion.

**1.6 Design Consultant.** The "**Design Consultant**" or "**Designer**" as used herein shall mean the legally approved professional architect/engineer, or group or association or professional corporation or



joint venture of such approved professional architects, engineers and/or consultants, who have contracted with the City to accomplish the architectural, engineering and other design and related technical services necessary to complete the Project. The Project Design Consultant is: OZ Architecture Design Collective. In case of termination of the Design Consultant, the City will appoint a Design Consultant whose status under the Construction Contract shall be the same as that of the former Design Consultant.

**1.7 User Agency.** The “User Agency” as used herein shall mean the City agency currently responsible for the operation and maintenance of the Project. The User Agency is the City and County of Denver Department of Safety.

**1.8 Construction Team.** The Contractor, the City, and the Design Consultant, called the “Construction Team,” shall work together to complete the Project. The Contractor shall provide leadership to the Construction Team on all matters relating to Construction.

## **2.0 CONTRACT DOCUMENTS:**

**2.1** It is agreed by the parties hereto that the following list of instruments, drawings and documents which are attached hereto, bound herewith or incorporated herein by reference constitute and shall be referred to as the “Contract Documents” and all of said instruments, drawings and documents taken together as a whole constitute the Contract and Agreement between the parties hereto, and they are as fully a part of this Contract and Agreement as if they were set out verbatim and in full herein. The Contract Documents represent the entire and complete integration of all understandings between the City and the Contractor and supersedes all prior negotiations, representations or agreements. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement or change order properly executed by the parties. When the Contract Drawings and Technical Specifications are complete and issued by the Design Consultant for construction, they will, without further action be incorporated into this Construction Contract as if fully set forth herein as **Exhibits L and M.**

This CMGC Construction Contract

Advertisement of Notice of Invitation for Qualifications, dated March 21, 2016 (incorporated herein by reference)

Request for Proposals (RFP), dated May 12, 2016 (incorporated by reference)

Contractor Response to RFP, dated May 27, 2016 (incorporated by reference)

General Contract Conditions (incorporated by reference; table of contents attached as **Exhibit A**)

Special Contract Conditions (attached as **Exhibit B**)

Minority/Women Owned Business Enterprise Program Compliance Plan (attached as **Exhibit C**)

Preconstruction Services Agreement, dated August 16, 2016 (incorporated by reference as **Exhibit D**)

Equal Employment Opportunity Provisions (attached as **Exhibit E**)

Prevailing Wage Rate Schedule(s) (attached as **Exhibit F**)

Performance and Payment Bond (attached as **Exhibit G**)  
Final/Partial Lien Release Form (attached as **Exhibit H**)  
Notice to Proceed Form (attached as **Exhibit I**)  
Contractor's Certification of Payment Form (attached as **Exhibit J**)  
Final Receipt Form (attached as **Exhibit K**)  
Contract Drawings (incorporated herein by reference as **Exhibit L**)  
Technical Specifications Vol. 1 and 2 (incorporated herein by reference as **Exhibit M**)  
GMP Proposal (attached as **Exhibit N**)  
Equipment Rental Rates (to be later attached as **Exhibit O**)  
Billing Rates for Salaried Personnel (attached as **Exhibit P**)  
Self Performed Work Proposal (attached as **Exhibit Q**)  
Certificate of Insurance (attached as **Exhibit R**)  
Schedule (attached as **Exhibit S**)

**2.2** If anything in the Contract Documents is inconsistent with this Construction Contract, this Construction Contract will govern. The order of precedence of the Contract Documents shall be as follows:

**2.2.1** this Construction Contract, as may be modified by amendment or change orders;

**2.2.2** the Special Conditions

**2.2.3** the General Contract Conditions;

**2.2.4** the Basis of the GMP Work Proposal,

**2.2.5** the Technical Specifications;

**2.2.6** the Contract Drawings; and

**2.2.7** all other Exhibits, whether attached to this Construction Contract, incorporated by reference or later added by Change Order.

**2.3** The intent of the Contract Documents is to include all terms, conditions, work items and services necessary or required for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be binding as if required by all. Work items or services not covered in the Contract Documents will be required unless they are not consistent with the Contract Documents and are not inferable from the Contract Documents as being necessary to produce the result intended by the Contract Documents. Anything mentioned in the Technical Specifications and not shown on the Contract Drawings, or shown on the Contract Drawings and not mentioned in the

Technical Specifications, shall be of like effect as if shown or mentioned in both. Words and abbreviations that have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meaning.

**2.4** It is contemplated by the parties that numerous exhibits or attachments, including construction documents and final technical specifications, will not be accomplished or must be developed after execution of this Construction Contract and, as such, must be finalized, incorporated by reference and/or attached to and be made a part of the Contract Documents subsequent to execution of this Construction Contract. The incorporation of such exhibits or attachments into this Construction Contract shall be accomplished by written directive from the Manager of Public Works or the Manager's designee. The parties shall be diligent in accomplishing these exhibits and attachments. To the extent these new exhibits or attachments conflict with other exhibits or portions of this Construction Contract, the greater service, better quality or greater quantity shall be included in the Work. However, nothing contained in this section shall limit the Contractor's ability to seek Change Order time and compensation adjustments for City changes to the Work incorporated into any of these later exhibits and attachments.

**2.5** Where reference is made in this Construction Contract to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

### **3.0 SCOPE OF WORK:**

**3.1 Completion Obligation.** The Contractor shall execute the Project described in the Contract Documents, except to the extent specifically indicated in the Contract Documents as the responsibility of others. The Contractor agrees to commence and undertake the performance of the Work under this Construction Contract within ten (10) days of the date of issuance of a Notice to Proceed in substantially the form attached as **Exhibit I** and agrees to substantially complete said Work within the Contract Time and fully complete said Work in accordance with the Contract Documents. The Contractor may complete the Project earlier than the date for substantial completion established by the Contract Time, but any claim by the Contractor based on delay shall be based upon the date for substantial completion established by the Contract Time and not on an earlier projected completion date that the Contractor may propose.

**3.2 Scope of Work.** The entire Scope of Work shall include the following:

**3.2.1 Preconstruction Phase Services.** The Preconstruction Services are comprised of all those services, obligations and responsibilities set forth in the Preconstruction Services Agreement, incorporated herein by this reference as **Exhibit D**. In order to expedite Project completion, the Parties entered into the Preconstruction Agreement to perform Preconstruction Services, in anticipation of the start of the Construction Phase of the Project. In accordance with the terms of the Preconstruction Agreement, compensation for the performance of such services is based on a lump sum fee for services. For the duration of this Construction Contract, the Contractor shall continue to perform any further Preconstruction Services required by the Project as part of its obligations under this Construction Contract as a Cost of the Work with no increase to the GMP.

**3.2.2 Construction Services.** The Construction Phase Services shall include the furnishing of all construction administration, management, supervision and coordination experience and expertise, as well as all construction services, work effort, labor, tools, supplies, manufactured components, equipment, materials, and everything else necessary and required to complete the construction of the Project on time and within budget; while satisfying the City's longstanding commitment to quality, efficiency, value, innovation, partnering, responsiveness to agency and community needs and compliance with all applicable regulatory requirements in the performance of general public improvements. Compensation for the

Construction Phase Services shall be in accordance with the terms and conditions of this Construction Contract.

**3.2.2.1 GMP Scope of Work.** The Contractor shall perform all Construction Services, as set forth in the GMP Proposal, which is attached as **Exhibit N**.

**3.2.3 The Work.** The terms “Scope of Work” or “Work” as used herein shall mean all Construction Services required by or reasonably inferable from the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work shall constitute the whole of the Project.

**3.3 Acknowledgement of Scope of Work.** The Contractor expressly recognizes and acknowledges that this Project must be completed within the time and fiscal constraints as set forth throughout this Construction Contract.

**3.3.1** The Contractor further represents to the City that by executing this Construction Contract, it has been fully informed of and has thoroughly reviewed the following: the objectives of the Project; the work effort of the Design Consultant performed to date for the Project; all of the Contract Documents attached to this Construction Contract or incorporated by reference; the City’s general time and budget constraints and contingencies applicable to the Budget; and all of the Work required by the Contractor by the Contract Documents. Based upon this thorough review and analysis and recognizing that the contract for design services is between the City and the Designer, the Contractor nonetheless represents to the City that it will provide or perform all of the necessary Work within the requirements of the Contract Documents.

**3.3.2** Also by execution of this Construction Contract, the Contractor covenants and represents that the Contractor has visited the site of the Project (the “Site”) and has had sufficient time and opportunity to independently examine and is sufficiently familiar with: the Site, the character and nature of the Site layout and materials, the character and nature of all Site constraints, restrictions and limitations, and limitations on ingress, egress and construction staging and performance; and the local conditions under which the Work is to be performed, including weather conditions and any other factors which may impact the Work. The Contractor further represents that it has taken into consideration and correlated these direct observations, examinations and investigations with the requirements of the Contract Documents and in the pricing of the Work, the formulation of the GMP, the Contractors Fee and in preparing all Exhibits.

**3.3.3** Also by execution of this Construction Contract, the Contractor represents that it has reviewed and is familiar with the City’s general expectations and scheduling assumptions regarding the completion of the Project and opening of the completed facility and that, given the Scope of Work, these scheduling assumptions are reasonable and achievable. The Contractor further represents that it will take into consideration and correlate these assumptions and constraints with the requirements of the Contract Documents and in the pricing of the Work, the GMP and the Contractor’s Fee.

**3.3.4** Finally, the Contractor represents that it has reviewed the Design Consultant Agreements and the 100% Design Drawings, accepts the terms and requirements thereof and affirmatively states that the Project, as expressed by the design documents and the Project requirements and constraints as modified by value engineering suggestions, budget adjustments and cost cutting measures suggested by the Contractor as of July 19, 2017 is a reasonable and constructible Project, incorporating a reasonable and workable delivery approach, schedule and budget.

**4.0 RELATIONSHIP OF THE PARTIES:**

**4.1** The parties intend herein to establish a relationship wherein the City relies upon the integrity and fidelity of the Contractor to complete the Project within the time and budget constraints set forth in this Construction Contract and in a manner which satisfies the City’s longstanding commitment to quality, efficiency, value, innovation, partnering, responsiveness to agency and community needs and compliance with all applicable regulatory requirements in the performance of general public improvements.

**4.2** The Contractor accepts the relationship of trust and confidence established by this Construction Contract with the City. The Contractor further agrees to utilize the Contractor’s best skills, efforts, and judgment in furthering the interests of the City regarding the Project; to furnish at all times an adequate supply of qualified and competent workers and quality materials; and to perform the work in the best, most expeditious, and economical manner. Further, the Contractor agrees to furnish efficient business administration, construction management and superintendence and to use its best efforts to complete the Work in an expeditious and economical manner, consistent with the interests of the City.

**4.3** The City will have a separate agreement with the Design Consultant to design the Project and to provide construction contract administration services necessary to ensure that the Work conforms to the Contract Drawings and Technical Specifications. Both the Contractor and the Design Consultant shall be given direction by the City, or the City’s designated and authorized representative(s). The Contract Documents shall not be deemed to create any contractual relationship between the Design Consultant and the Contractor or any separate contractors, subcontractors of any tier or suppliers on the Project. The relationship between the Contractor and the Design Consultant is intended to be cooperative and proactive, with both participating on the same team with the City.

**4.4** The Contractor shall accept the designated and authorized representatives of the City identified in the Contract Documents and perform its obligations toward and in response to such representatives in the same manner it would toward and in response to the City, pursuant to such designation and authorization.

**4.5 City Delegation Of Authority.** With reference to G.C. 212, CITY’S CONTRACT ADMINISTRATION LINE OF AUTHORITY, the Manager delegates to the City Engineer the authority necessary to undertake the responsibilities identified as the responsibilities of the Deputy Manager under this Construction Contract. The City Engineer hereby designates as Project Manager with authority to handle the day to day administration of this Construction Contract, the following personnel:

<b><u>Department of Public Works Project Manager</u></b>	<b><u>Telephone</u></b>
Kent Grissom	720-913-4556

**5.0 COORDINATION AND COOPERATION:**

**5.1** The Contractor agrees to cooperate and coordinate fully with the City in its performance of the Work to meet or exceed the City’s time and budgetary objectives and limitations, while maintaining the City’s longstanding commitment to quality, efficiency, value, innovation, partnering, responsiveness to agency and community needs and compliance with all applicable regulatory requirements in the construction of general public improvements.

**5.2** The Contractor shall, as a continuing work item under this Construction Contract, facilitate coordination, communication and cooperation regarding its performance hereunder between the City’s Department of Public Works (“Public Works”), the Project Manager, the Design Consultant, the User

Agency, other City consultants and any affiliated entities. In addition, the Contractor shall coordinate its efforts under this Construction Contract with all involved governmental and regulatory entities.

**5.3** The Contractor shall be responsible for taking accurate and comprehensive minutes at all Construction meetings attended by the Contractor regarding the Project. Those minutes shall be prepared in a format approved by the Project Manager and issued to all attendees, as well as those other parties designated by the City, no later than three working days after the meeting. Unless approved in advance in writing by the Project Manager and to the greatest extent practicable, Project meetings with the City shall be conducted in the City and County of Denver, Colorado.

**5.4** Nothing contained in the Contract Documents shall be deemed to give any third party any claim or right of action against the City, the Design Consultant or the Contractor that does not otherwise exist without regard to the Contract Documents.

**5.5** The Contractor shall use its best efforts and take all necessary precautions to protect and prevent damage and/or disruption to all City facilities and equipment, and shall coordinate all ingress and egress requirements with appropriate persons and agencies.

**6.0 CONTRACT TIME, SUBSTANTIAL COMPLETION AND LIQUIDATED DAMAGES:**

**6.1 Substantial Completion.** The term “Substantial Completion” is defined in the General Conditions. The number of days the Contractor shall have to attain Substantial Completion of the Scope of the Work set forth in the Contract Documents is set forth in this Section.

**6.2 Construction Time.** The term “Construction Time” is defined as the total number of days between the date of the Notice to Proceed with Construction and the date on which Substantial Completion of all Work must be completed by the Contractor. The Construction Time shall be: **238 Calendar Days.**

**6.3 Final Completion.** Final Completion of the Work occurs following Substantial Completion when all punch list items are completed and the Contractor has provided the City with a Final Lien release Form (which may be contingent upon receipt of Final Payment) (in the form of **Exhibit K**). The term “Final Completion” is defined in the General Conditions.

**6.4 Liquidated Damages.** The parties recognize and agree that time is of the essence of this Contract. In the event that the Work is not Substantially Complete within the Construction Time, as that time may be extended for delays for which an extension of time is permitted under the terms of the Contract Documents, the City and the Contractor acknowledge and agree, after a full discussion of the implications of this section, that it would be impractical and extremely difficult to estimate all of the damages which the City might incur for failure of the Contractor to timely achieve Substantial Completion within the Construction Time. Therefore, the City and the Contractor have determined that a reasonable estimate of the total detriment that the City would suffer in the event that the Contractor so defaults and the Project is not Substantially Complete within the Construction Time, as extended as permitted herein, is and shall be, in the event of said default and failure, and not as a penalty, the amount per day stated below that the Work shall remain not Substantially Complete after the Construction Time, as applicable, including extensions, has elapsed. It is understood and agreed that the City reserves all of its other rights and remedies including, but not limited to, the ability to collect Actual Damages and Administrative Costs as defined in General Condition 602.

Liquidated Damages Table

Amount per Day	Substantial Completion	\$1500.00
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**7.0 SUBCONTRACTS AND OTHER AGREEMENTS:**

**7.1 Subcontractor Selection.** The Contractor recognizes and accepts that the subcontractor and supplier selection and contracting procedures specified herein are intended to promote pricing or buyout of the Work which is fair and reasonable and, to the greatest extent practicable, is based on fair and open competition. As such, all Work, except for Work or Services included in the Contractor's Fee, the Contractor's General Conditions or Work performed by the Contractor with the prior written approval of the Project Manager ("Self-Performed Work") shall be procured based upon competitive bids awarded to the lowest, responsive and qualified bidder and subcontracted to "Subcontractors" and "Suppliers," which may include Contractor Self-Performed Work under Section 7.1, in accordance with **Exhibit Q** and in compliance with the General Conditions, attached hereto and incorporated herein as **Exhibit A**. Each Subcontractor and Supplier selection shall be reviewed by the City and the City reserves the right to reject any Subcontractor or Supplier in accordance with the terms and conditions of the General Conditions or in the event the City determines that the selection was not made after a competitive bid. Upon request of the Contractor, the City may waive the competitive bid requirement of this Section with the express written approval of the Project Manager.

**7.2 Subcontract Forms.** All subcontracts will be between the Contractor and the selected Subcontractors or Suppliers, which may include the Contractor for Lump Sum Self-Performed Work. The form of each subcontract shall be furnished to the City for review and acceptance as to form, which acceptance shall not be unreasonably withheld. All subcontracts shall require that all Subcontractors or Suppliers of any tier performing Work accept and agree to be bound by the terms and conditions of the Contract Documents and to assume toward the Contractor all obligations and responsibilities the Contractor, by the Contract Documents, assumes toward the City. All subcontracts shall preserve and protect the rights of the City under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof shall not prejudice these rights.

**7.3 Substitution.** The Contractor shall make no substitution for a Subcontractor or Supplier previously selected without the prior written approval of the Project Manager and such approval shall not be unreasonable withheld.

**7.4 Responsibility.** The Contractor shall be responsible to the City for the acts and omissions of its agents and employees, Subcontractors and Suppliers of any tier, and their agents and employees performing Work under this Construction Contract.

**8.0 COMPENSATION.**

**8.1 Cost of the Work.** The term Cost of the Work shall consist of costs necessarily incurred in the proper performance of the Work for the Project as delineated below which shall be paid by the City to the Contractor. Cost of the Work shall not include any Fee of the Contractor. Any allowable mark-up by the Contractor is included in the Contractor's Fee. Cost of the Work shall consist of the following Contractor incurred items set forth below:

**8.1.1** Cost of wages paid for labor in the performance of the Work at the site or with the City's agreement at offsite workshops, which shall as a minimum be in accordance with the prevailing wage rates established by the City and County of Denver for construction projects, as set out in DRMC Section

20-76. In the event the prevailing wage rates are increased in accordance with DRMC Section 20-76, on the anniversary date of this Construction Contract, these increases shall also be included as a cost of the work. Costs paid or incurred by the Contractor shall include actual wages for the Contractor's own personnel (including overtime premiums as applicable), taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and for personnel not covered by such agreements, customary benefits and the Contractor's company policy such as sick leave, individual and dependent medical and health benefits, disability insurance, holidays, craft training fund, vacation, pension, and, as applicable, 401K contributions. The City and the Contractor agree that the wages and burden for the personnel referenced in this paragraph and paragraphs 8.1.17 and 8.1.18 shall be charged as a Cost of the Work at not less than the stipulated fixed rates set forth on Prevailing Wage Rate Schedule, attached as **Exhibit F**, or as appropriate charges at the stipulated fixed rates set forth on the Billing Rates for Salaried Personnel attached as **Exhibit P**.

**8.1.2** Cost of contributions, assessments or taxes for such items as unemployment compensation and social security, insofar as such cost is based on wages, salaries or other remuneration paid pursuant to Section 8.1.1.

**8.1.3** Cost of mock-ups and testing, as may be previously approved by the Project Manager.

**8.1.4** Cost of all materials, supplies and equipment incorporated in the Work, including costs of transportation thereof.

**8.1.5** Payments properly made by the Contractor to Subcontractors and Suppliers under Project subcontracts for performance of portions of the Work including insurance required by this Contract and bond premiums incurred.

**8.1.6** Payments actually made for architects, engineers and other consultants providing services to the Contractor reasonably required to perform the work, unless such services are to be provided to the Owner by the Design Consultant or other City-Retained Consultants (as defined in the Design Consultant's Agreement for Professional Design Services).

**8.1.7** Cost, including transportation, inspection, handling, storage and maintenance, of all temporary facilities and all materials, supplies, equipment and hand tools not owned by the workmen that are consumed in the performance of the Work on the Project. The Contractor shall negotiate with the City the salvage value of all items purchased and used on the Project but not consumed, damaged, lost or stolen at the completion of the work, crediting any proceeds against the Cost of the Work. If the Contractor and the City cannot agree on the salvage value of the above items then said items shall remain the property of the City and the Contractor shall give no credit to the Cost of the Work. The Contractor may institute a voluntary recycling program.

**8.1.8** Actual rental charges of all necessary machinery and equipment, exclusive of hand tools, used at the Site, whether rented from the Contractor (at rental rates approved by City and specified on **Exhibit O**) or others, including equipment owned by the Contractor that is assigned to salaried staff and charged to the Project and costs of fuel, oil, insurance, maintenance and minor repairs and replacements, transportation, installation, dismantling and removal thereof. The City and the Contractor agree that the rates for the rented equipment shall be charged as a Cost of Work at the stipulated fixed rates set forth on the Equipment Rental Rate Schedule, attached as **Exhibit O**.

**8.1.9** The cost of the premiums for all bonds and Builder's Risk insurance that the Contractor is required to procure by this Construction Contract. The costs of the premiums for all other insurance that the Contractor is required to procure by this Construction Contract or that are deemed necessary by the



Contractor with the City's written approval shall be charged as a Cost of the Work at the stipulated fixed percentage of 1.28% of the Cost of Work, and all deductibles that are attributable to this Construction Contract, including equipment insurance deductibles.

**8.1.10** Applicable sales, use or similar taxes related to the direct performance of the Work and for which the Contractor is liable, imposed by any governmental authority.

**8.1.11** Permits, fees, licenses, costs of all tests, commissioning costs, inspections and approvals, as may be required by the Contract Documents or applicable laws, ordinances or public authority for the performance of the work (except for inspection and testing performed by the City, at its cost).

**8.1.12** Actual costs of reproduction, telegrams, facsimile transmissions, mobile phones, long distance telephone calls, telephone service at the Site, postage and express delivery charges, and reasonable petty cash expenses of the site office in connection with the Work.

**8.1.13** Cost of removal of all debris from the Site.

**8.1.14** Costs for temporary and permanent power, lighting, heat, chilled drinking water, sewer and water services as required to complete the Work at the Site, and costs for snow removal as required.

**8.1.15** Cost incurred by the Contractor in repairing or correcting defective, damaged or nonconforming work, provided that such defective, damaged or nonconforming work was beyond the control of the Contractor, Subcontractors, or Suppliers, or caused by the ordinary mistakes or inadvertence, and not the negligence of the Contractor's or any Subcontractor's or Supplier's supervisory personnel. If the costs associated with such defective, damaged or nonconforming work are recoverable from insurance or Subcontractors or Suppliers, the Contractor shall exercise its best efforts to obtain recovery from the appropriate source and credit the Cost of the Work if recovery is obtained.

**8.1.16** Costs incurred due to any emergency affecting the safety of persons and property and related to the Work unless otherwise covered by insurance or reimbursable from a Subcontractor or Supplier, or unless such costs are due to the fault or negligence of the Contractor or a Subcontractor or Supplier of any tier.

**8.1.17** Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site, and when stationed off-site and working on the Project in accordance with the staffing and salary schedule set forth in **Exhibit P**, including vacation time, in accordance with the Contractor's company policy, accrued and taken during the performance of the Work. This includes estimators, safety personnel, quality control personnel and their assistants.

**8.1.18** Wages or salaries of the Contractor's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work in accordance with the staffing and salary schedule set forth in **Exhibit P**.

**8.1.19** With prior written approval of the Project Manager, that portion of the reasonable travel and subsistence expenses of the Contractor's personnel incurred while traveling in discharge of duties connected with the Work.

**8.1.20** Fees of testing laboratories for tests required by the Contract Documents.

**8.1.21** Legal, mediation and arbitration costs other than those arising from disputes between the City and the Contractor reasonably incurred by the Contractor in the performance of the Work and with the City's prior written permission of the Project Manager.

**8.1.22** Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the City.

**8.1.23** Costs associated with the implementation of any established company safety program, which costs shall be subject to City's reasonable approval.

**8.1.24** Contractor's General Conditions expenses as identified in **Exhibit N**. These expenses include rented or purchased materials and equipment used by the Contractor at the Project site office in connection with the Work.

**8.1.25** Cost of warranty repairs, to the extent not covered by a subcontract or purchase agreement (provided that the Contractor shall use its best efforts to enforce the warranties received from subcontractors, suppliers and vendors). These costs include the Contractor's administrative staff associated with supervision and management of the warranty repairs.

**8.1.26** Reasonable data processing costs related to the work, including data line service, internet charges, software costs and licenses fees.

**8.1.27** All costs and fees incurred in the performance of work and approved for payment under the Preconstruction Services Agreement (**Exhibit D**).

**8.1.28** Deposits for materials, design of manufactured items and supplied items is the responsibility of the contractor. Reimbursements will be made once the item is installed and accepted by the Project Manager.

**8.2** **Costs Not To Be Reimbursed.** Cost of the Work shall not include expenditures made for any of the following:

**8.2.1** Salary of any officer of the Contractor.

**8.2.2** Salary of the Contractor's employees stationed at the Contractor's main office not working on the Project.

**8.2.3** Overhead, profit and general expenses of any kind except as included in the Contractor's Fee.

**8.2.4** The capital expenses of the Contractor, including interest on capital employed for the work.

**8.2.5** Expenses of the Contractor's principal office and offices, other than the Site office.

**8.2.6** Costs incurred by the Contractor in situations where such costs may be covered by insurance or recoverable from a Subcontractor or Supplier, if the Contractor failed to use its best efforts to obtain such insurance proceeds or recovery from the responsible Subcontractor(s) or Supplier(s).

**8.2.7** Expenses incurred for relocation and temporary living expenses of personnel required for the Work, or when such relocation is for the convenience of the Contractor.

**8.2.8** Any cost that would cause the GMP to be exceeded.

**8.2.9** Any costs not specifically included in the Cost of the Work, Section 8.1.

**8.2.10** Costs of retesting non-conforming Work.

**8.3** **Contractor's Fee.** The "Contractor's Fee" (the "Fee") to be paid to the Contractor and included in the GMP shall be a lump sum of **FOUR HUNDRED TWENTY-NINE THOUSAND FORTY-SIX DOLLARS AND NO CENTS (\$429,046.00)**, payable in progress installments pursuant to a mutually agreeable schedule of progress installments.

**8.4** **Guaranteed Maximum Price.**

**8.4.1** **Guaranteed Maximum Price.** The GMP shall be established at the time the GMP proposal is accepted by the City and incorporated herein as **Exhibit N**, subject to adjustments as provided in the Contract Documents.

**8.4.2** The Guaranteed Maximum Price consists of the sum of (i) the estimated Cost of the Work; and (ii) the Fee. The Contractor has presented and the City has accepted the Guaranteed Maximum Price and Basis of the GMP Proposal attached hereto as **Exhibit N**. The Parties specifically agree that the City shall not be subject to any cost, charge or fee under this Agreement that is not specified above.

**8.5** **Savings.** In the event that the actual Cost of the Work plus the Fee shall be less than the GMP, the resulting savings shall inure One Hundred Percent (100%) to the City. The Contractor shall distribute such savings to the City by Change Order that either reduces the GMP or implements enhancements or additions to the Project requested by the City.

**8.6** **Construction Contract Amount and Funding.** In accordance with the terms of this Construction Contract, the maximum Construction Contract Amount to be paid by the City to the Contractor under this Agreement shall not exceed **TWELVE MILLION EIGHT HUNDRED FOUR THOUSAND NINE HUNDRED EIGHTY-FOUR DOLLARS AND FIFTY-SIX CENTS (\$12,804,984.56)**. The Contractor guarantees and warrants that the Project will be completed by its performance hereunder for the GMP amount. In no event will the City's liability exceed the maximum Construction Contract Amount, as adjusted by duly authorized change order in accordance with this Construction Contract. The parties specifically agree that any performance by the Contractor hereunder shall not subject the City to any cost, charge or fee not specified above.

**9.0** **DISPUTE RESOLUTION:**

It is the express intention of the parties to this Construction Contract that all disputes of any nature whatsoever regarding the Construction Contract including, but not limited to, any claims for compensation or damages arising out of breach or default under this Construction Contract, shall be resolved by administrative hearing pursuant to the provisions of Section 56-106, DRMC or, with respect to appropriate issues involving Small Business Enterprise contracting, by Section 28-33, DRMC. The Contractor expressly agrees that this dispute resolution process is the sole and only dispute resolution mechanism that will be recognized and employed by the parties for any claims put forward by the Contractor, notwithstanding any other claimed theory of entitlement on the part of the Contractor or its Subcontractors or Suppliers.

**10.0** **ADDITIONAL PROVISIONS:**

**10.1** **No Discrimination in Employment.** In connection with the performance of work under this contract, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in

matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts. Further, the Contractor agrees to comply with the provisions of Section 28-45 to 28-47, DRMC, and all Rules and Regulations promulgated and adopted by the Manager of Public Works pursuant thereto relating to non-discrimination in employment by contractors, subcontractors and suppliers receiving compensation for work performed on the Project.

**10.2 Insurance.** In addition to the requirements and obligations set forth in Title 16, the Contractor shall comply with the insurance requirements set forth in **Exhibit R**.

**10.3 Title to the Work.** The parties agree that the City shall have title to all components and aspects of the Project which are in place and title to all materials for which any payment has been made to the Contractor hereunder.

**10.4 Compliance with Minority/Women Owned Business Enterprise Requirements.** This Construction Contract is subject to all applicable provisions of Divisions 1 and 3 of Article III, of Chapter 28, Denver Revised Municipal Code (D.R.M.C.), designated as Sections 28-31 – 29-36 and 28-52 – 28-90 D.R.M.C. and referred to in this Contract as the “M/WBE Ordinance”. In accordance with the requirements of the M/WBE Ordinance, the Contractor is committed to, at a minimum, meet the participation goal of **twenty four percent (24%)** established for this Project utilizing properly certified M/WBE subcontractors and suppliers. In addition to the applicable provisions of the M/WBE Ordinance, the Contractor agrees, as an express condition of its performance hereunder, to comply with the requirements of any approved Small Business Enterprise Compliance Plan (attached and incorporated herein as **Exhibit C**). Such plan shall, at a minimum, include a narrative regarding compliance with the goal; a list of committed M/WBE participants along with dollar and percent participation for each evidencing compliance with the overall goal, and fully executed letters of intent for each listed participant, all in a form satisfactory to the City. Without limiting the general applicability of the foregoing, the Contractor acknowledges its continuing duty, pursuant to Sections 28-72, 28-73 and 28-75 DRMC and the M/WBE Program, to meet and maintain throughout the duration of this Construction Contract its participation and compliance commitments and to ensure that all Subcontractors subject to the M/WBE Ordinance or the M/WBE Program also maintain such commitments and compliance. Failure to comply with these requirements may result, at the discretion of the Director of the Division of Small Business Opportunity (“DSBO”), in the imposition of sanctions against the Contractor in accordance with Section 28-77, DRMC. Nothing contained in this Paragraph or in the referenced City ordinance shall negate the City’s right to prior approval of Subcontractors, or substitutes therefore, under this Construction Contract.

**10.5 Prevailing Wages.**

**a.** 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, 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.

Date bid or request for qualifications/proposals was advertised March 21, 2016.

If contract opportunity was not advertised, date of written encumbrance \_\_\_\_\_.

b. Prevailing wage and fringe rates will adjust on, and only on, the anniversary of the date the Contract was fully executed. Unless expressly provided for in this Agreement, Contractor will receive no additional compensation for increases in prevailing wages or fringe benefits.

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

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

e. 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](mailto:auditor@denvergov.org).

f. If Contractor fails to pay workers as required by the Prevailing Wage Ordinance, Contractor will not be paid until documentation of payment satisfactory to the Auditor has been provided. The City may, by written notice, suspend or terminate work if Contractor fails to pay required wages and fringe benefits.

**10.6 Applicability of Laws.** This Contract and Agreement between the Contractor and the City shall be deemed to have been made in the City and County of Denver, State of Colorado and shall be subject to, governed by and interpreted and construed in accordance with the laws of the State of Colorado and the Charter, the Revised Municipal Code, Rules, Regulations, Executive Orders and fiscal rules of the City. As such, the Contractor shall at all times comply with the provisions of the Charter, Revised Municipal Code, Rules, Regulations, Executive Orders and fiscal rules of the City, and those of the State of Colorado and Federal Laws and Rules and Regulations, which in any manner limit, control or apply to the actions or operations of the Contractor, any Subcontractors, employees, agents or servants of the Contractor engaged in the Work or affecting the materials and equipment used in the performance of the Work, as the same may be, from time to time, promulgated, revised or amended. The Charter and Revised Municipal Code of the City, as the same may be amended from time to time, are hereby expressly incorporated into this Construction Contract as if fully set out herein by this reference.

**10.7 Appropriation.** Notwithstanding any other term, provision, or condition herein, all payment obligations under this Construction Contract shall be limited to the funds appropriated or otherwise made available by the Denver City Council and paid into the Treasury of the City. As of the date of this Construction Contract, **TWELVE MILLION EIGHT HUNDRED FOUR THOUSAND NINE HUNDRED EIGHTY-FOUR DOLLARS AND FIFTY-SIX CENTS. (\$12,804,984.56)** have been appropriated for this Construction Contract. The Manager of Public Works, upon reasonable written request, will advise the Contractor in writing of the total amount of appropriated and encumbered funds that are or remain available for payment to the Contractor.

**10.8** The issuance of any form of order or directive by the City which would cause the aggregate amount payable to the Contractor to exceed the amount appropriated for the Work to be performed in accordance with the Contract Documents is expressly prohibited. In no event shall the issuance of any change order or other form of order or directive by the City be considered valid or binding if it requires additional compensable Work to be performed, which Work will cause the aggregate amount payable for such Work to exceed the amount appropriated and encumbered for the Work, unless and until such time as the Contractor has been advised in writing by the Manager of Public Works that a lawful appropriation sufficient to cover the entire cost of such additional Work has been made. It shall be the responsibility of the Contractor to verify that the amounts already appropriated for the Work are sufficient to cover the

entire cost of such Work, and any Work undertaken or performed in excess of the amount appropriated is undertaken or performed in violation of the terms of this Agreement, without the proper authorization for such Work, and at the Contractor's own risk and sole expense.

**10.9 Approvals.** In the event this contract calls for the payment by the City of five hundred thousand dollars (\$500,000.00) or more, approval by the City Council of the City and County of Denver, acting by ordinance, in accordance with Section 3.2.6 of the Charter of the City and County of Denver, is and shall be an express condition precedent to the lawful and binding execution and effect and performance of this contract.

**10.10 Assignment Strictly Prohibited.** The Contractor shall not assign or otherwise transfer, in whole or in part, any of its rights, benefits, claims, obligations, duties or entitlement to monies owed or which may become due under this Construction Contract, except upon the prior written consent and approval of the Manager to such assignment.

**10.11 Conflict of Interest.** The parties agree that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the City further agrees not to hire or contract for services with any official, officer or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.2.9 and 1.2.12.

**10.12 Taxes, Charges and Penalties.** Except as provided in the City's Prompt Payment ordinance, codified at DRMC Sections 20-107, 20-108 and 20-109, the City shall not be liable for the payment of any taxes, late charges, interest or penalties of any nature arising out of this Construction Contract.

**10.13 Waiver of C.R.S. 13-20-802 et. seq.** 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 Construction Contract.

**10.14 Proprietary or Confidential Information.**

**10.14.1 City Information:** The Contractor understands and agrees that, in performance of this Construction Contract, the Contractor may have access to private or confidential information that may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. The Contractor agrees that all information disclosed by the City to the Contractor shall be held in confidence and used only in performance of the Construction Contract. The Contractor shall exercise the same standard of care to protect such information as a reasonably prudent Contractor would to protect its own proprietary data.

**10.14.2 Contractor Information:** The parties understand that all the material provided or produced under this Construction Contract may be subject to the Colorado Open Records Act, C.R.S. 24-72-201, et seq., and that in the event of a request to the City for disclosure of such information, the City shall advise the Contractor of such request in order to give the Contractor the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material. The Contractor further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Contractor's intervention to protect and assert its claims of privilege against disclosure under this Section including, but not limited to, prompt reimbursement to the City of all

reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

**10.15 Status of Contractor.** It is understood and agreed that the status of the Contractor shall be that of an independent contractor retained on a contractual basis to perform work or services for limited periods of time, and it is not intended, nor shall it be construed, that the Contractor, or any member of its staff or any consultant, is an employee or officer of the City for any purpose whatsoever.

**10.16 Rights and Remedies Not Waived.** No payment or failure to act under the Construction Contract by the City shall constitute a waiver of any breach of covenant or default which may then exist on the part of the Contractor. No assent, expressed or implied, by either party to any breach of the Construction Contract shall be held to be a waiver of any default or other breach.

**10.17 Notices.** Any notices, demands, or other communications required or permitted to be given by any provision of this Construction Contract shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to the parties at the addresses set forth herein or at such other address as either party may hereafter or from time to time designate by written notice to the other party given in accordance herewith. Notice shall be considered received on the day on which such notice is actually received by the party to whom it is addressed, or the third (3rd) day after such notice is mailed, whichever is earlier. Unless changed in writing, such notices shall be mailed to:

If to the Contractor:

Jeff Erker, VP  
FCI Constructors, Inc.  
4015 Coriolis Way  
Frederick CO, 80504

If to the City

Manager of Public Works  
Department of Public Works  
City and County of Denver  
201 West Colfax, Department 608  
Denver, Colorado 80202

With a copy to:

City Attorney  
City and County of Denver  
201 West Colfax, Department 1207  
Denver, Colorado 80202

**10.18 Survival of Certain Provisions.** The parties understand and agree that all terms, conditions and covenants of this Construction Contract, together with the exhibits and attachments hereto, if any, any or all of which, by reasonable implication, contemplate continued performance or compliance beyond the expiration or termination of this Construction Contract (by expiration of the term or otherwise), shall survive such expiration or termination and shall continue to be enforceable as provided herein. Without limiting the generality of the foregoing, the Contractor's obligations for the provision of insurance, for indemnity to the City and for preserving confidentiality of trade secrets and other information shall 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.

**10.19 Contract Binding.** It is agreed that this Construction Contract shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and duly authorized assigns.

**10.20 Paragraph 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.

**10.21 Severability.** It is understood and agreed by the parties hereto that, if any part, term, or provision of this Construction Contract, except for the provisions of this Construction Contract requiring prior appropriation and limiting the total amount to be paid by the City, is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Construction Contract did not contain the particular part, term or provision held to be invalid.

**10.22 Use, Possession or Sale of Alcohol or Drugs.** Contractor shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

**10.23 Electronic Signatures and Electronic Records.** Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the 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 the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[SIGNATURE PAGES FOLLOW]**



**Contract Control Number:**

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

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_


By \_\_\_\_\_

By \_\_\_\_\_



Contract Control Number: PWADM-201736327-00

Contractor Name: FCI CONSTRUCTORS INC

By:  \_\_\_\_\_

Name: JEFF ERKER  
(please print)

Title: VICE PRESIDENT  
(please print)

ATTEST: [if required]

By:  \_\_\_\_\_

Name: NATHANIEL SPERRY  
(please print)

Title: PROJECT MANAGER  
(please print)



**Exhibit A  
General Contract Conditions  
2011 Edition**

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF PUBLIC WORKS**

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**EXHIBIT B**  
**SPECIAL CONTRACT CONDITIONS**

**CITY AND COUNTY OF DENVER**  
**DEPARTMENT OF PUBLIC WORKS**

**SC-1 CONSTRUCTION SPECIFICATIONS**

Except as amended herein or in the attached Technical Specifications, all Work performed under the terms of this Contract shall be governed by the applicable provisions of the following latest editions:

*Standard Specifications for Construction, GENERAL CONTRACT CONDITIONS, City and County of Denver* (The Index for which is bound herein and commonly referred to as the "Yellow Book") (2011 Edition)

*Colorado Department of Transportation "Standard Specifications for Road and Bridge Construction"* (Sections 200 through 700 of the 2011 Edition).

*Transportation Standards and Details for the Engineering Division, City and County of Denver* (January, 2013)

*Manual on Uniform Traffic Control Devices for Streets & Highways* (MUTCD)

*Building Code of the City and County of Denver*

*National Fire Protection Association Standards* (As referenced in the Building Code of the City and County of Denver)

*Wastewater Management Division – Detail and Technical Specifications for Storm and Sanitary Construction.*

The aforementioned documents are available for review at the Capital Projects Management Office, 201 W. Colfax Ave., Dept. 506, (5<sup>th</sup> floor), Denver, CO 80202. *The Standard Specifications for Construction, GENERAL CONTRACT CONDITIONS, City and County of Denver, and the Standards and Details for the City and County of Denver* are available online at:

<http://www.denvergov.org/Portals/480/documents/2011%20DENVER%20GENERAL%20CONTRACT%20CONDITONS.pdf>

<http://www.denvergov.org/rightofwayservices/RightofWayServices/ConstructionInspection/RightofWayConstructionInspection/StandardsandDetails/TransportationStandardsandDetails/tabid/442463/Default.aspx>

<http://www.denvergov.org/wastewatermanagement/WastewaterManagement/EngineeringandPermits/StandardsandDetails/tabid/438018/Default.aspx>

The *Manual on Uniform Traffic Control Devices for Streets & Highways* is available for review as stated above, or can be viewed at the Federal Highway Administration Website at: [www.fhwa.dot.gov](http://www.fhwa.dot.gov), where you will also find purchase information.

The "*Colorado Department of Transportation Standard Specifications for Road and Bridge Construction*" is available for review as stated above, or can be purchased from the Colorado Department of Transportation.



**SC-2 CITY DELEGATION OF AUTHORITY**

With reference to General Contract Condition 109, DEPUTY MANAGER, General Contract Condition 206, ENGINEERING DIVISION and General Contract Condition 214, CITY’S CONTRACT ADMINISTRATION LINE OF AUTHORITY, the Manager hereby designates the City Engineer as the City official responsible for those certain actions and decisions designated as the responsibility of the Deputy Manager under the General Conditions and delegates to the City Engineer the authority necessary to undertake those responsibilities under this Contract. The Director shall have supervisory responsibility over the Project Manager. Additionally, Contractor questions concerning the Plans and Technical Specifications shall be directed to:

**Denver Department of Public Works / Engineering Division,**

Project Manager

Kent Kent Grissom, Public Works/ Facilities Capital Projects

Consultant

OZ Architecture

**SC-3 CONTRACT AMOUNT; BID PRICE, GUARANTEED MAXIMUM PRICE**

General Condition 103, CONTRACT AMOUNT, is hereby deleted in its entirety and replaced with the following:

"Contract Amount," "Bid Price," "Bid Amount," or "Maximum Contract Amount" means the Guaranteed Maximum Price ("GMP") under the Contract.

In the General Conditions, the phrases "provided to the City at no cost," "at no cost to the City," "cost . . . shall be borne by the Contractor," "costs shall be reimbursed by the Contractor," "at the expense of the Contractor," "Contractor shall bear any and all costs," and "Contractor shall bear any and all additional costs," mean that the costs in question are to be included as a Cost of the Work without any increase to the Guaranteed Maximum Price. Also, whenever a General Condition states that the Contractor shall be required to take any action, or responsible for any action or thing, it means that such requirements and responsibilities are included as a Cost of the Work without any increase to the Guaranteed Maximum Price, unless there is a specific statement to the contrary as to any such requirement or responsibility.

**SC-4 TIME OF BIDDING; TIME OF CONTRACTING**

In the General Conditions, the words "time of bidding," "bidding," and the like, shall mean the time when the Contract is signed.

**SC-5 CONTRACT DOCUMENTS**

General Condition 104 CONTRACT DOCUMENTS is hereby deleted in its entirety and replaced with the following:

"The Contract Documents" consist of the documents which are listed in the Contract Form."

**SC-6 CONTRACT TIME**

General Condition 105 CONTRACT TIME is hereby deleted in its entirety and replaced with the following:

"Contract Time" is the time specified in the Contract within which the Contractor is required to substantially complete the Work. Substantial Completion shall occur prior to Final Completion. The Contract Documents may require completion on or before a certain specified date.

**SC-7 DEPUTY MANAGER/CITY ENGINEER**

General condition 109 DEPUTY MANAGER is hereby deleted in its entirety and replaced with the following:

The "Deputy Manager" means the official who reports directly to the Manager and exercises supervisory responsibility in the City agency defined in Title 2 herein that is responsible for the Project. The Manager hereby designates the City Engineer as the Deputy Manager for purposes of this Contract. The City Engineer shall have responsibility for this Project and shall undertake all duties, responsibilities, rights and authority, including specific actions and decisions, delegated to the Deputy Manager under the various terms and conditions of this Contract.

**SC-8 SUBCONTRACTOR**

General Condition 118, SUBCONTRACTOR, is hereby amended by adding a new final sentence to read as follows:

"Subcontractor" may also mean the Contractor pursuant to a subcontract for lump-sum self-performed work, as authorized in the Contract Form.

**SC-9 WORK**

General Condition 121 WORK is hereby deleted in its entirety and replaced with the following:

The terms "Scope of Work" or "Work" as used herein shall mean all Preconstruction and Construction Phase services required by or inferable from the Contract Documents, whether completed or partially completed, and includes all other labor, management, administration, supervision, materials, supplies, manufactured components, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

**SC-10 WORKING HOURS AND SCHEDULE**

General Condition 306 WORKING HOURS AND SCHEDULE is hereby deleted in its entirety and replaced with the following:

1. Work shall normally not be done on Saturdays, Sundays, City observed holidays, or outside of the daytime working hours which may be specified in the Special Conditions, except for such work as may be necessary for proper care, maintenance, and protection of Work already done, or in cases when the Work would be endangered or when hazard to life or property would result The Contractor shall comply with Denver's noise control ordinance during all working hours.
- 2.. If the Contractor believes it may be necessary to work on Saturdays, Sundays, holidays, city furlough days, or at night, the Contractor shall make prior arrangements with the Project Manager and receive written approval at least twenty-four (24) hours before such work period so that proper inspection and engineering services can be provided. Such approval may be revoked by the Project Manager if the Contractor fails to maintain adequate equipment and lighting at night for the proper prosecution, control and inspection of the Work. If Work is done outside of approved working hours, and the Project Manager has not assigned inspectors to the Work, the Work performed during

those periods of time may be declared defective solely on the grounds that it was not properly inspected.

3. The Contractor shall schedule and coordinate the performance of all of its Subcontractors and Suppliers, including their use of the Work site. The Contractor shall keep the Subcontractors and Suppliers informed of the Project construction schedule to enable the Subcontractors and Suppliers to plan and perform their work properly.
4. The Contractor shall submit, with the GMP Proposal, a construction schedule which shall provide for the expeditious and practicable execution of the Work. Such construction schedule shall be in a Critical Path Method (CPM) format or such other format approved by the Project Manager. This Schedule shall be considered, upon City acceptance, the baseline schedule for the Project. A Critical Path Method schedule shall be required in any event for any Contractor Change Request pursuant to G.C. 1103.4 and any resulting claim. The receipt of the schedule by the Project Manager shall in no way constitute acceptance of the Contractor's anticipated schedule of construction activities. The schedule will be reviewed for comment by the Project Manager. The Project Manager's review and comment on the schedule shall not constitute approval or acceptance thereof by the City.
5. The Critical Path Method schedule shall provide reasonable detail as described in the Technical Specifications and shall include a time scaled network and computer printout. Additionally, float or slack is defined as the amount of time between the early start date and the late start date, or the early finish date and the late finish date, of any activities in the schedule. Float or slack is not time for the exclusive use or benefit of either the Contractor or the City.
6. The Contractor shall, once a month, submit a progress report and an updated schedule in a form acceptable to the Project Manager.

#### **SC-11 SUBCONTRACTOR ACCEPTANCE**

General Condition 502, SUBCONTRACTOR ACCEPTANCE, is hereby deleted in its entirety and replaced by the following:

1. Except as provided in the City's Small Business Enterprise (SBE), Disadvantaged Business Enterprise (DBE), or Minority and Women Business Enterprise (M/WBE) contracting requirements, the City recognizes that prior to bidding, the bidder may not have been able to negotiate for all portions of the Work which the bidder proposes to subcontract. The City will, therefore, permit the successful bidder to propose additional Subcontractor(s) at any time during the Contract period provided, however, that any limitation on subcontracting has not been exceeded, and that all such SBE, DBE, or M/WBE requirements are adhered to, including, if applicable, the Contractor's SBE or M/WBE Compliance Plan. If the proposed Subcontractor(s) are acceptable and the City, by letter to the Contractor, approves of the Subcontractor(s), the Contractor may enter into agreements with these parties. If any proposed Subcontractor(s) are not acceptable to the City, the Contractor must submit for City approval the names of substitute Subcontractors.
2. Each Subcontractor which the Contractor expects to perform Work must be accepted in writing by the Project Manager before the Subcontractor begins work. The acceptance or rejection of any proposed Subcontractor shall be at the Project Manager's sole discretion. The reasons the Project Manager may use for not accepting a Subcontractor include, but are not limited to, the following:
  - A. Default on a contract within the last five (5) years.
  - B. Default on a contract which required that a surety complete the contract under payment or performance bonds issued by the surety.

- C. Debarment within the last five (5) years by a public entity or any organization which has formal debarment proceedings.
  - D. Significant or repeated violations of Federal Safety Regulations (OSHA).
  - E. Failure to have the specific qualifications listed in the Contract Documents for the work that the Subcontractor will perform.
  - F. Failure to have the required City or Colorado licenses to perform the work described in the subcontract.
  - G. Failure to pay workers the proper wage and benefits or to pay suppliers or subcontractors with reasonable promptness within the last five (5) years.
  - H. Conviction, plea of nolo contendere, entry into a formal agreement admitting guilt or entry of a plea of guilty or otherwise admitting culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, anti-trust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Subcontractor's business, on the part of Subcontractor's principal owners, officers, or employees, within the last five (5) years.
  - I. Failure to pay taxes or fees to the City.
  - J. Evidence that the Subcontractor was selected by the Contractor through the process of bid shopping, dishonesty or buyout.
3. The Contractor shall submit a statement signed by an officer or principal of the Contractor certifying that the Contractor has investigated the qualifications and background of each proposed Subcontractor and certifying under oath that, to the best of his or her knowledge, none of the bases for rejection listed above exist. In lieu of this certification, the Contractor may identify, for each proposed Subcontractor, any of the issues listed above applicable to that Subcontractor and attach to that statement a list of all judicial and administrative proceedings in the last five (5) years in which any proposed Subcontractor is or was a party, the proceedings involving any of the issues listed above or in which any proposed Subcontractor filed for bankruptcy.
4. This Title 5 does not create, and shall not be interpreted as creating, any contractual relationship or privity of contract between the City and any Subcontractor. The acceptance or rejection of a proposed Subcontractor shall not create in that Subcontractor a right to any subcontract nor shall said acceptance or rejection relieve the Contractor of its responsibilities for the work of any Subcontractor.

## **SC-12 PAYMENT PROCEDURE**

The application for payment shall be submitted through Textura® Corporations Construction Management Website. Contractor recognizes and agrees that it shall be required to use the Textura Construction Payment Management System for this Project. Contractor further agrees that, to the fullest extent possible within the CPM System, the City shall be entitled to all non-Confidential records, reports, data and other information related to the project that are available to Contractor through the CPM System, including, but not limited to, information related to Contractor and subcontractor billings. To that end, Contractor agrees that it will activate any available settings within the CPM System that are necessary to grant the City access to such non-Confidential information related to the contract and the project. Applications for payment shall be based on the Contract Unit Prices or the approved Schedule of Values described in GC 903.1

In accordance with General Contract Condition 902, PAYMENT PROCEDURE, the party(ies) responsible for review of all Pay Applications shall be:

<u>Agency/Firm</u>	<u>Name</u>	<u>Telephone</u>
Public Works/ Facilities Capital Projects	Kent Grissom	720-913-4556

In accordance with General Contract Condition 906, APPLICATIONS FOR PAYMENT, each Application submitted shall include the following:

1. The estimate of Work completed shall be based on the approved schedule of values or unit prices, as applicable, and the percent of the Work complete.
2. Each Application for Payment shall include each and every independent subcontractor's payroll information including pay dates and pay amounts.
3. The Contractor shall also submit to the Auditor and other appropriate officials of the City in a timely fashion, information required by General Contract Condition 1004, REPORTING WAGES PAID.

In accordance with General Contract condition 907, RELEASES AND CONTRACTORS CERTIFICATION OF PAYMENT, Applications for Payment must be accompanied by completed Partial or Final Claim Release Form, as appropriate, from EACH subcontractor and supplier, **AND/OR** the Contractors' Certification of Payment Form. The forms, Final/Partial Release and Certificate of Payment (Subcontractor/Supplier) and the Contractor's Certification of Payment, both of which must be used are attached.

### **SC-13 SCHEDULE OF VALUES FOR LUMP SUM SUBCONTRACTS**

Special Condition 903, SCHEDULE OF VALUES FOR LUMP SUM CONTRACTS, is hereby deleted in its entirety and replaced by the following:

1. The Contractor shall furnish to the Project Manager, for review and approval, a Schedule of Values for lump sum subcontracts, in such detail as the Project Manager shall request, no later than thirty (30) Days prior to the issuance of the first pay application. The Schedule of Values shall show the amount included for each principal category of work and shall be in proper balance. No pay application shall be submitted until the submitted Schedule of Values is approved in writing by the Project Manager.
2. Should the City issue a Change Order that decreases or increases the Contract Amount, the Schedule of Values shall be modified to reflect the amount of such decrease or increase and resubmitted to the Project Manager at least fifteen (15) Days prior to the pay application reflecting such increase or decrease.

### **SC-14 APPLICATIONS FOR PAYMENT**

General Condition 906, APPLICATIONS FOR PAYMENT, is hereby deleted in its entirety and replaced by the following:

1. Each complete application shall contain a list of Subcontractor and material invoices. If requested by the City, the Contractor will furnish the City with invoices shown on the lists which accompany any application for payment.
2. Application for payment shall be based on approved Cost of the Work items incurred, completed and/or certified by the Contractor. The application shall specify the Cost of the Work so certified as having been incurred by the Contractor for Work performed during the preceding period. The Contractor's Fee shall be paid based on the actual Cost of Work items incurred. Each application for payment shall also be accompanied by a written schedule of values which sets out the Cost of the Work for the Project together with the Contractor's accounting of the percentage of completion of each line item of Cost of the Work of which the City is liable to pay the Contractor.

3. The Contractor shall certify in writing with each application for payment that to its knowledge the Project will be completed at a cost within the Guaranteed Maximum Price, as modified by change orders, and shall identify with reasonable particularity any circumstances which could result in the total cost to the Contractor (including Fee) in completing the Project exceeding the Guaranteed Maximum Price.
4. Reserved
5. Each application for payment for materials or equipment stored on or off the Project site shall be accompanied by bills of sale to establish the City's title to such material or equipment free and clear of liens and encumbrances; evidence of property insurance covering such materials or equipment; evidence, as to material and equipment stored off the Project site, that the same have been properly labeled as the City's property and segregated from the vendor's other inventory; and, if required by the City, contracts and financing statements sufficient to create a security interest in favor of the City in materials or equipment stored off the Project site which remain in the possession of the vendor of such materials or equipment.
6. Each progress payment application shall show each Subcontractor or Supplier participating in the Work completed during the previous progress period and the dollar amount of such participation. The Contractor will assure that the Subcontractors and/or Suppliers are filing for and are being paid for only the value of materials and services delivered and performed upon or incurred for the Project and that the Subcontractors and/or Suppliers are not over-billing for the effort performed. The Contractor shall, prior to or with the submission of each application for payment, furnish to the City proper evidence accounting for the distribution to Subcontractors and/or Suppliers of funds received under prior applications together with proper releases and waiver, in form and content acceptable to the City, obtained in connection therewith.
7. If the Contractor disputes a Subcontractor's or Supplier's entitlement to a portion of the previous progress payment, the Contractor shall submit to the City copies of any written communication from the Contractor to such Subcontractor or Supplier explaining the Contractor's determination not to render payment to such Subcontractor or Supplier, together with proof of service of such written communication upon such Subcontractor or Supplier.
8. Each application for payment shall be signed. Such signed application for payment shall constitute a representation by the Contractor to the City that the Work has progressed to the point indicated; that the quality of the Work covered by the estimate is in accordance with the Contract Documents; that each obligation covered by the payment application has been properly incurred, is a proper charge and has not been the basis of any previous application (except as otherwise noted); that the money received as a result of the application will be used to discharge the Contractor's obligations under the Contract; and that the Contractor is entitled to payment in the amount requested. The Project Manager or the Design Consultant, as appropriate, must also verify and certify the estimate of Work completed prior to any acceptance by the City.
9. By submitting an application for payment, the Contractor warrants that: (i) the title to the Work covered by an application for payment will pass to the City upon receipt of payment by the Contractor; (ii) the Work covered by previous payment applications is free and clear of liens, claims, security interests or encumbrances, hereinafter referred to as "liens", except for any interest created by retainage; and (iii) no Work covered by an application for payment is subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or any other person or entity.

10. The Contractor shall not include in its application for payment any billing for defective Work or for work performed by Subcontractors or Suppliers if it does not intend to pay the Subcontractors or Suppliers for such work.
11. Approval of an application for payment of Work completed or actual payment by the City shall not foreclose the right of the City to examine the books and records of the Contractor to determine the correctness and accuracy of any item.
12. Should the City decline or fail to approve for payment any items of the Contractor's Fee, the Cost of the Work, or any other item shown on an application for payment, the City shall notify the Contractor in writing, setting forth the reasons for such action. The City shall pay that portion of each payment application which is not disapproved in writing by the City.
13. No progress payment or partial or entire use or occupancy of the Project by the City shall constitute an acceptance of Work not in accordance with the Contract Documents.

### **SC-15 DISCOUNTS, REBATES AND REFUNDS**

Cash discounts obtained on payments made by the Contractor shall accrue to the City if (1) before making the payment, the Contractor included them in an Application for Payment and received payment therefore from the City, or (2) the City has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the City, and the Contractor shall make provisions so that they can be secured. Amounts which accrue to the City herein shall be credited to the City as a deduction from the Cost of the Work.

### **SC-16 ADJUSTMENT OF CONTRACT AMOUNT**

General Condition 1104, ADJUSTMENT TO CONTRACT AMOUNT, is hereby deleted in its entirety and replaced by the following:

1. Contract Amount Adjustments. All adjustments to the Contract Amount shall be determined by using one or more of the following methods:
  - A. A negotiated lump sum. If requested by the City, the Contractor shall promptly provide itemized and sufficient substantiating data, including calculations, measurements, cost records, production rates, equipment types and capacity, labor costs by craft and other information which the City may reasonably require the Contractor to produce in order to permit the City to evaluate any lump sum Contractor Change Request. In pricing such proposals, the Contractor shall include estimates of the type of costs described in G.C. 1104.2.
  - B. Unit prices (as stated in the Contract Documents or subsequently agreed upon) multiplied by final verified quantities of work performed;
  - C. Costs as determined in a manner previously agreed upon by the parties, which include markups, that do not exceed those set forth in G.C. 1104.2 below; or
  - D. Time and Material costs as determined in the manner described in G.C. 1104.2, Calculation of the Contract Adjustment. These amounts may be reduced where necessary to take into account the cost of Base Contract Work, Work included in approved Change Orders, Work described in other Field Order/Change Directives, idle time for workers and/or equipment when Work could have been performed in other locations or when the number of workers or amount of equipment provided exceeded the number or amount required to perform the

Work, unsatisfactory Work, or Work which may be or was performed concurrently with the changed Work and which cannot be easily segregated from the changed Work .

2. Calculation of the Contract Adjustment. In no event shall the charge or credit to the City associated with any change exceed the sum of the following:
  - A. Direct Labor The actual net, direct increase or decrease in the cost of the Contractor's labor. Such cost shall include only the cost associated with the workers who actually perform the changed Work. The cost of supervision, management and field or office overhead shall not be included or calculated as a direct labor cost. For shop work, the direct labor cost shall include only those workers who work directly on the item being manufactured or the actual operators of the equipment being used to handle the items being manufactured.
  - B. Labor Burden. Contractor's actual costs for worker's compensation and liability insurance, payroll taxes, social security and employees' fringe benefits (including employer paid health insurance) imposed on the basis of payrolls. This burden must reflect the variability of some burdens, ie social security. The burden shall be itemized and include all small tools and miscellaneous supplies. The total labor burden for such small tools shall not exceed two percent (2%) of the Direct Labor cost.
  - C. Direct Material, Supplies, Installed Equipment. The actual net, direct cost of materials, supplies and equipment incorporated into or consumed by the Work. If actual costs are not available, this cost shall be the lowest commercially available price including all discounts and rebates and all applicable taxes Such cost shall be based on buying the material, supplies and equipment in the largest practical quantity to receive quantity discounts.
  - D. Equipment Costs. Without markup or operator, the lesser of (i) the actual net cost to the Contractor of owned or rented equipment, other than small tools; or (ii) the rental rate for such equipment as determined by using the following method(s):
    - (1) Equipment rental rates listed in the appropriate rental rate book currently in use by the Colorado Department of Transportation. If an item of equipment does not appear in the rental rate book currently in use by the Colorado Department of Transportation, the rental rates published by the Associated Equipment Dealers may be used as a basis for negotiating a rental rate for a particular piece of equipment. The Contractor shall provide all information necessary to determine the appropriate rental rate at the time the equipment is brought on the job. This shall include, but not be limited to, type, description, make, year, model, series, serial number, fuel type, transmission, wheel combination, GVW, capacity and equipment owner.
    - (2) Rental equipment costs shall be determined using actual invoiced rates, less all discounts for basic equipment rental.
    - (3) Mobilization/demobilization costs will be paid if the equipment is mobilized exclusively for Work described in a Change Order. If the equipment is also used on Base Contract Work, no mobilization or demobilization cost will be paid. Mobilization/demobilization costs will be based on using the least expensive means to mobilize or demobilize Equipment shall be obtained from the nearest available source. When the least expensive methods are used, the costs shown in the actual invoice will be the basis for pricing.



E. Mark Up For Overhead And Profit.

- (1) The Contractor's Fee on the calculated change of Cost of Work shall be the only amount added to such calculated cost of Work to as markup and profit to the Contractor, including any fee on applicable Work self-performed by the Contractor.
- (2) A Subcontractor of any tier who actually performs the Work shall be entitled to a markup of twelve percent (12 %) on the actual costs for items A through D in GC 1104.2 above. Bonds and insurance are compensated at direct cost without markup.
- (3) A supervising Subcontractor (if any) shall be entitled to a three percent (3%) markup on the actual price charged to the Subcontractor by a Subcontractor of lower tier.
- (4) All of the Contractor's and Subcontractor's field and office overhead and supervision costs are included in the Fee and markups listed above.
- (5) Neither the Contractor nor Subcontractor of any tier, nor the City in the case of a credit, will apply or attempt to apply these percentage adjustments in a way which would pyramid either the cost or credit because of the involvement of a Subcontractor or sub-subcontractor. Written justification and approval shall be required for any percentages exceeding a total of fifteen percent (15%).

F. Bonds, Insurance, Permits And Taxes. The actual increases or decreases in the cost of premiums for bonds and insurance, permit fees, and sales, use or similar taxes related to the Work. The Contractor shall not be entitled to a Fee for any such costs.

3. Totals as Equitable Adjustment. The Contractor agrees that the total of the above items constitute an equitable adjustment for any and all costs or damages resulting from a change.

4. No Equitable Adjustment for Obstruction by Contractor. No equitable adjustment shall be made as a result of costs resulting from any act, hindrance, obstacle, obstruction, interference or omission of the Contractor, its Subcontractors, Suppliers, or surety, or any other entity or individual acting on behalf of the Contractor.

5. Calculation of Certain Equitable Adjustments.

A. In case of delay in completion of the entire Contract due to drawings, designs or specifications which are defective and for which the City is responsible, the equitable adjustment for delays or costs incurred prior to notification to the City of such defect shall only include the extra cost and time reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect.

B. An equitable adjustment shall not include increased costs for delay resulting from the Contractor's failure to continue performance during determination of any Contractor Change Request or claim.

6. Price Reductions for Defective Cost or Pricing Data. If it is later determined that pricing adjustments to the Contract were not correct due to incomplete or inaccurate pricing data by the Contractor or any Subcontractor or Supplier or that lower prices were reasonably available, the

price shall be reduced accordingly and the Contract Amount modified by an appropriate Change Order.

7. Variation in Quantity of Unit Priced Items. Where the quantity of a unit-priced item in the Contract is an estimated quantity and the actual quantity of the unit-priced item varies more than twenty-five percent (25%) above or below the estimated quantity, and where this difference changes the total original Contract value by more than five percent (5%), an equitable adjustment in the Contract Amount may be made by Change Order. The equitable adjustment shall be based upon any increase or decrease in cost due solely to the variation above one hundred twenty-five percent (125%) or below seventy-five percent (75%) of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completing the Work, the Contractor may request, in writing, an extension of time in accordance with GC 1105.
8. Disposition of Excess or Obsolete Property. When the cost of materials, supplies, equipment or other personal property made obsolete or excess as a result of a delay is included in the equitable adjustment, the Project Manager shall have the right to prescribe the manner of disposition of such property.

### **SC-17 SURETY BONDS**

General Condition 1501, SURETY BONDS, is hereby deleted in its entirety and replaced by the following:

1. Payment and performance bonds must be issued by a corporate surety authorized to do business in the State of Colorado and approved by the Mayor, the Manager and the City Attorney.
2. Before the Contract is executed, the Contractor shall have furnished such surety bonds and appropriate Powers of Attorney as a guarantee of the faithful performance of the Contract and the payment of bills for labor and materials.
3. The Manager may direct, at his sole discretion, that the required payment and performance bonds be combined in a format approved by the City Attorney.
4. The Contractor shall provide a Consent of Surety for any duly executed Change Order that increases the Contract Amount, thereby increasing the penal sum of the bonds.
5. The form of the Performance and Payment Bond to be used by the Contractor is included in the Contract Documents.

### **SC-18 CONSTRUCTION INSPECTION BY THE CITY**

General Condition 1701, CONSTRUCTION INSPECTION BY THE CITY, is modified as follows:

1. Persons who are employees of the City or who are under contract to the City or the City as lessee will be assigned to inspect and test the Work. These persons may perform any tests and observe the Work to determine whether or not designs, materials used, manufacturing and construction processes and methods applied, and equipment installed satisfy the requirements of the drawings and specifications, accepted Shop Drawings, Product Data and Samples, and the General Contractor's warranties and guarantees. The General Contractor shall permit these inspectors unlimited access to the Work and provide means of safe access to the Work, which cost shall be included as a Cost of the Work without any increase to the Guaranteed Maximum Price. In addition, General 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 General Contractor of any of its quality control responsibilities or any other obligations under the Contract. 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 pursuant to G.C. 2002, whether or not previous inspections or tests were conducted by the inspector or a City representative.

2. The Building Inspection Division will perform building code compliance inspections for structures designed for human occupancy. It is the General Contractor's responsibility to schedule and obtain these inspections. If a code compliance inspection results in identification of a condition which will be at variance to the Contract Documents, the General Contractor shall immediately notify the Project Manager and confirm such notification with formal correspondence no later than forty-eight (48) hours after the occurrence.
3. When any unit of government or political subdivision, utility or railroad corporation is to pay a portion of the cost of the Work, its respective representatives shall have the right to inspect the Work. This inspection shall not make any unit of government or political subdivision, utility or railroad corporation a party to the Contract, and shall not interfere with the rights of either party.

**SC-19 AUTHORITY OF INSPECTORS**

General Condition 1702, AUTHORITY OF INSPECTORS, is hereby deleted in its entirety and replaced by the following:

Inspectors assigned to the Work by the Project Manager are authorized to reject any Work, any materials, or any component of the Work which is not as required or specified in the Contract Documents. Such rejection will be confirmed by the Project Manager in writing to the Contractor. Inspections may extend to all or any part of the Work and to the preparation, fabrication or manufacture of the materials to be used. The inspector is not authorized to alter or waive the provisions of the Contract Documents, nor is the inspector authorized to issue instructions contrary to the provisions of the Contract Documents or to act as foreman for the Contractor.

**SC-20 TERMINATION OF CONTRACT FOR CONVENIENCE OF THE CITY**

General Condition 2202, TERMINATION OF CONTRACT FOR CONVENIENCE OF THE CITY, is hereby deleted in its entirety and replaced by the following:

1. The performance of Work under the Contract may be terminated without cause by the City in whole or in part whenever the Manager, in his sole discretion, shall determine that such termination is in the best interest and convenience of the City or whenever the City is prohibited from completing the Work for any reason. Such termination shall be effected by giving not less than three (3) Days' written notice to the Contractor specifying the extent to which performance of the Work is terminated and the date upon which such termination becomes effective.
2. Upon receipt of such notice of termination, the Contractor shall:
  - A. Stop work as specified in the notice;
  - B. Terminate all orders and subcontracts except as necessary to complete Work which is not terminated;
  - C. If directed in writing by the Manager to do so, assign all right, title, and interest in subcontracts and materials in progress, in which case the City will have the right, in its discretion, to settle or pay any or all Claims arising out of the termination of such subcontracts;
  - D. Settle outstanding liabilities and claims with the approval of the Manager;

- E. Complete performance of such part of the Work as has not been terminated; and
  - F. Take such other actions as may be necessary, or as may be directed by the City, for the protection and preservation of the property related to the Contract.
3. Except as provided herein, any inventory resulting from the termination of the Contract may, with written approval of the Manager, be sold or acquired by the Contractor under the conditions prescribed by and at prices approved by the City.
  4. Upon receipt of notice of such termination, the Contractor shall submit to the Project Manager a request for final payment, in a form and with certification prescribed by the City. Such request shall be submitted promptly but in no event later than sixty (60) Days from the effective date of termination, unless extended in writing by the Project Manager upon the written request of the Contractor within such sixty (60) Day period.
  5. The final payment to the Contractor after a termination for convenience shall be calculated by adding the following amounts:
    - (1) Any actual costs incurred by the Contractor since the last approved pay request that are reimbursable as a Cost of the Work plus the proportionate Fee on such costs;
    - (2) The actual costs incurred by the Contractor for terminating the Work and for protecting the Work in the manner, if any, directed by the City, plus the proportionate Fee on such costs; and
    - (3) The amount of retainage withheld by the City to date.
  6. The acceptance of final payment as calculated above shall constitute a waiver of all Claims by the Contractor except those previously made in accordance with G.C. 1301 which have been separately identified by the Contractor as unsettled in the final Project Application for Payment.
  7. The Manager may, from time to time, under such terms and conditions as the Manager may prescribe, authorize partial payments and payments against costs incurred by the Contractor for the terminated portion of the Contract, if it is estimated that the total of such payments will not exceed the amount to which the Contractor will be entitled. If the total of such payments is in excess of the amount to which the Contractor is entitled, the excess shall be payable by the Contractor to the City upon demand, together with interest computed pursuant to statute, for the period from the date the excess payment is received by the Contractor to the date the excess is repaid to the City.
  8. The settlement for the Work performed shall not relieve the Contractor or its surety from responsibility for defective Work and/or materials on the completed portion of the Work nor for labor and materials or any other items as guaranteed by the surety bond or bonds.
  9. The City shall be given full access to all books, correspondence, records, electronic files and data bases, and other materials of the Contractor relating to the Contract in order to determine the amounts to be paid on account of the termination of the Contract under this G.C. 2202. The Contractor shall, as requested by the City, furnish clear copies of any such materials.
  10. In the event the parties fail to agree in whole or in part on the amount or amounts to be paid to the Contractor in connection with the termination of work pursuant to this G.C. 2202, the Contractor may appeal the Project Manager's determination as to the amount owed in accordance with Title 13, except that, if the Contractor has failed to submit its request for payment within the time provided above and has failed to request an extension of such time, it shall have no such right of appeal.

**SC-21 SUBCONTRACTS**

In accordance with General Contract Condition 501, SUBCONTRACTS, no limit shall apply to that percentage of the Work, which may be sublet providing that the subcontractors receive prior approval in accordance with General Contract Condition 502, SUBCONTRACTOR ACCEPTANCE.

**SC-22 RESERVED**

**SC-23 DISPOSAL OF NON-HAZARDOUS WASTE AT DADS**

In accordance with the Landfill Agreement made between the City and Waste Management of Colorado, Inc., bidders 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 bidder 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. Bidders shall not use Gun Club Road between I-70 and Mississippi Avenue as a means of access to DADS.

**SC-24 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.

**SC-25 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 Construction Contract.

**SC-26 DEBARRED SUBCONTRACTORS PROHIBITED**

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.

**SC-27 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 a 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 one hundred dollars per hour of City Attorney time.

General Condition 1601 is hereby deleted in its entirety and replaced with the following:

1. **General Conditions:** 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. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for eight (8) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of 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, 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. 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.

2. **Proof of Insurance:** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as **Exhibit R**, preferably an ACORD certificate, 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 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.

3. **Additional Insureds:** For Commercial General Liability, Auto Liability and Contractors Pollution Liability, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

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

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

6. **Workers' Compensation/Employer's Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. . If an exposure exists, the U.S. Longshore and Harborworkers Compensation Act endorsement shall be attached to the policy. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering

into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

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

**8. Business Automobile Liability:** Contractor shall maintain Business Automobile Liability, or its equivalent, 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, 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 an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.

**9. Excess/Umbrella Liability:** Contractor shall maintain excess liability limits of \$3,000,000. Coverage must be written on a "follow form" basis. Any combination of primary and excess coverage may be used to achieve required limits.

**10. Builders Risk or Installation Floater:** 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. Contractor is responsible for payment of all policy deductibles. The City and County of Denver, Contractor, and sub-contractors shall be named insureds under the policy. Policy shall remain in force until acceptance of the project by the City.

**11. Contractors Pollution Liability:** Contractor shall maintain limits of \$1,000,000 per occurrence and \$2,000,000 policy aggregate. Policy to include bodily injury; property damage including loss of use of damaged property; defense costs including costs and expenses incurred in the investigation, defense or settlement of claims; and clean up costs. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

**12. Additional Provisions:**

(a) For Commercial General Liability, Excess Liability and Contractors Pollution Liability the policies must provide the following:

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs are outside the limits of liability;
- (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(b) For claims-made coverage:

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

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



**Office of Economic Development**  
Division of Economic Mobility  
Small Business Opportunity  
201 W Colfax Ave, Dept 907  
Denver, CO 80202  
p: 720.913.1999  
f: 720.913.1809  
[www.denvergov.org/dsbo](http://www.denvergov.org/dsbo)

Denver International Airport  
Airport Office Building, Suite 7810  
8500 Pena Blvd  
Denver, CO 80249  
p: 303.342-2180  
f: 303.342.2190  
[www.flydenver.com](http://www.flydenver.com)

August 7, 2017

Malecia Mayer  
Project Coordinator  
FCI Constructors, Inc.  
4015 Coriolis Way  
Frederick, CO 80504

Re: Denver 911 Relocation and Renovation Project - Compliance Plan

The Division of Small Business Opportunity (DSBO) has reviewed the attached Compliance Plan submitted by FCI Constructors, Inc. on the above reference project and has determined that this plan complies with the MBE/WBE requirements according to Chapter 28, Article III, Division 3 of the Denver Revised Municipal Code (D.R.M.C.).

The Division of Small Business Opportunity approves the Compliance Plan and the commitment to meet or exceed the 24% M/WBE goal of the total construction price under the contract.

Should there be questions, contact Cindy Ackerman, Compliance Analyst, at 720-913-1636 or [cynthia.ackerman@denvergov.org](mailto:cynthia.ackerman@denvergov.org)

Sincerely,

A handwritten signature in blue ink, appearing to read "Ledy Garcia-Eckstein".

Ledy Garcia-Eckstein, Director  
Division of Economic Mobility

CC: Cindy Ackerman, Compliance Analyst  
Kent Grissom, Project Manager  
Elizabeth Zollo, PW Contract Administration



**CITY AND COUNTY OF DENVER  
DIVISION OF SMALL BUSINESS OPPORTUNITY  
CONSTRUCTION CONTRACT COMPLIANCE PLAN  
FOR M/WBE PARTICIPATION**

**FCI Constructors  
Denver 911 Relocation and Renovation Project  
CONTRACT NO. 201736327**

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**CITY AND COUNTY OF DENVER  
DIVISION OF SMALL BUSINESS OPPORTUNITY  
CONSTRUCTION CONTRACT COMPLIANCE PLAN  
FOR M/WBE PARTICIPATION**

**FCI Constructors  
Denver 911 Relocation and Renovation Project  
CONTRACT NO. 201736327**

**SECTION 1: INTRODUCTION**

- A. FCI Constructors, Inc. (the “Contractor”) submits this Compliance Plan to the Director of the Division of Small Business Opportunity (“Director”), as required by the Executive Director of Purchasing, in accordance with §§ 28-51 to 28-83, D.R.M.C., and the implementing rules adopted by the Director (“Rules”).
- B. Under the City’s Ordinance No. 85, Series of 2014 (the “M/WBE Ordinance”), codified at §§ 28-51 to 28-83, D.R.M.C., the M/WBE participation goal for this contract is 24%. The good faith solicitation level is 100%
- C. The Contractor is committed to compliance with the M/WBE Ordinance in its performance of the Contract. The Contractor will continually pursue a level of M/WBE participation that equals or exceeds 24% of the total construction price under the Contract.
- D. Because of the delivery method used for this Project, the work was not ready for subcontracting at the time when the Contractor was awarded the Contract. Therefore this Compliance Plan provides for the M/WBE solicitation and subcontracting to be performed after contract formation. The process by which the Contractor will solicit, obtain, count and maintain participation by MBE and WBE firms for this Project under this Compliance Plan, will be same as the M/WBE Ordinance requires for “design-bid-build” construction contracts.
- E. This Compliance Plan describes how the Contractor will address the project goal at the point where the project work is sufficiently defined that the process of obtaining subcontractors and suppliers can begin, by committing to utilize MBE/WBEs for the Project work, using the good faith efforts as defined by the M/WBE Ordinance
- F. The Construction Manager/Contractor (CM/GC) delivery method is being utilized for this project.
- G. The Contractor [~~will OR~~ will not] deliver the construction work in phases. [If the work will be delivered in phases, Section 3 below describes the Contractor’s plan to meet the project goal as it relates to such phases.]

## **SECTION 2: KEY PERSONNEL**

Nathaniel Sperry, 303-324-0840, nsperry@fciol.com, has been assigned as the Project Manager for this Contract. The Project Manager is responsible for the overall management of the Contractor's performance of the Project.

Kim Lawrence, 970-535-4725, klawrence@fciol.com, is the Project Coordinator, who will administer subcontracts and ensure that all documentation required by DSBO is prepared and maintained. Kim will coordinate the collection of DSBO documentation and monthly payroll reports from all subcontractors and suppliers, including but not limited to M/WBEs.

## **SECTION 3: STRUCTURING BID PACKAGES FOR M/WBE PARTICIPATION**

- A. The Contractor has identified preliminarily the following separate packages of work to be subcontracted:

*[Display the information in chart form. Examples are provided below for your use.  
Customize the form so that it provides the information specific to your project.  
The total at bottom needs to be the contract total.  
Showing subtotals along the way for completely different types of work is acceptable.  
Force accounts and contingency fees may be deducted from the total goals are met upon.  
The overall committed contract goal is the percentage stated on page 1. ]*

<b>GOALS SCHEDULE CHART</b>				
<b>WORKSCOPE</b>	<b>APPROXIMATE DOLLAR AMOUNT</b>	<b>PERCENT-AGE OF TOTAL PROJECT</b>	<b>ASSIGNED MWBE GOAL PER SECTION</b>	<b>ANTICIPATED RESULTING MWBE PARTICIPATION</b>
Earthwork/Site Demo	\$400,000	3.12%	32.50%	\$130,000
Utilities	\$38,000	.30%	0.00%	\$0
Paving	\$243,000	1.90%	0.00%	\$0
Landscape & Irrigation	\$650,000	5.08%	0.00%	\$0
Concrete	\$790,000	6.17%	0.00%	\$0
Masonry	\$50,000	.39%	60.00%	\$30,000
Metals	\$180,000	1.41%	61.11%	\$110,000
Carpentry	\$170,000	1.33%	0.00%	\$0
Thermal & Moisture	\$245,000	1.91%	0.00%	\$0
Doors & Windows	\$360,000	2.81%	43.06%	\$155,000
Finishes	\$1,180,000	9.22%	50.85%	\$600,000
Specialties	\$350,000	2.73%	0.00%	\$0
Mechanical	\$2,400,000	18.74%	31.25%	\$750,000
Electrical	\$3,500,000	27.34%	37.14%	\$1,300,000
<b>SUBTOTAL</b>	<b>\$10,556,000</b>	<b>82.44%</b>		<b>3,075,000</b>
Design				
GC Staff, General Conditions and Contingencies	\$2,248,000	17.56%		
<b>TOTAL</b>	<b>\$12,804,000</b>	<b>100%</b>	<b>24.02%</b>	<b>3,075,000</b>

- B. These packages will be reviewed and refined as the work for the Contract is further defined and ready for the process of subcontracting. Specifically, prior to advertising any package of work for bids or proposals, the Contractor will review the work in detail, to determine the types of work that can be performed by M/WBE firms, with reference to the DSBO's database and directory of certified M/WBE firms, and will adjust its subcontracting packages to maximize opportunities for M/WBE participation in such subcontracting, within economically feasible packages.
- C. The Contractor has the following preliminary schedule:
1. Review scope of the proposal request.
  2. Determine if proposal request documents are complete and adequate to bid. Request additional information if necessary.
  3. Determine if proposal request contains "Force Accounts" or "Contingency" and notify DSBO of such items.
  4. Identify potential M/WBE subcontractors that can bid the proposed proposal request to determine of task goals can be obtained.
  5. Determine if Good Faith Effort is required.
  6. Prepare Invitation to Bid.
  7. If required, start Good Faith Effort for task to meet M/WBE goals.
- D. DSBO will be notified of potential issues. In the past specific issues or potential issues have been:
1. Force Accounts (subcontractor selection, product selection, vendor selection) – If a Force Account is imposed on FCI, we will require a letter from the CCD Project Manager which will be submitted with the initial proposal request to CCD and the DSBO.
  2. Emergency Work – If Emergency Work is required of FCI, we will require a letter from the CCD Project Manager which will be submitted with the initial proposal request to CCD and also DSBO.
- E. Prequalification of subcontractors is completed prior to bid time to optimize quality and safety, and to verify necessary licenses, insurance and bonding. Subcontractors are asked to verify their project schedule and manpower availability before being allowed to bid on the project.

The Contractor has prequalified and worked with many City Certified M/WBE Contractors. If the City Certified M/WBE Contractor has not been prequalified and is interested in proposing on a CCD project, then we will start the prequalification process. First we ask for the necessary/applicable licenses, insurance, and bonding (if required). We will verify that their licenses are up to date and meet the requirements of the scope of work, insurance is valid and meets our required amounts, and bonding is the proper amount if it is required. Then we like to meet with the contractor and discuss their past experiences/projects. If the subcontractor is competent, meets our requirements and shows successful past work experience/projects, then we will request a proposal from them.

- F. The Contractor may pursue different percentage goals for M/WBE participation in each separate package of work put out for bids, based on the types of work and availability of certified M/WBE firms. However, the Contractor is committed to the overall goal of 24% M/WBE participation in the total construction work amount.
- G. The Contractor may consider, in order to maximize M/WBE participation, subcontracting the following types of work which it might ordinarily self-perform: Finish Carpentry, Demolition, Concrete, Clean-up.

**SECTION 4: COMMUNITY OUTREACH EFFORTS AND ADVERTISING TO M/WBE CERTIFIED FIRMS:**

The Contractor will conduct the following outreach efforts:

- A. Contractor will use the City's M/WBE directory and encourage all non-M/WBE subcontractors to use the directory when soliciting any of their own subcontractors or suppliers for the project.
- B. If during outreach efforts, Contractor locates a firm which appears to be eligible for City M/WBE certification but is not so certified, Contractor will direct the firm to DSBO and encourage the firm to pursue certification if eligible.
- C. When it has work packages ready for subcontracting, the Contractor will publish notices in The Daily Journal and other local publications and websites, identifying the subcontracting opportunities and specifically soliciting City-certified M/WBE participation. The Contractor will also provide notice of all such solicitations to relevant organizations such as, but not limited to, the Colorado Black Chamber of Commerce, Rocky Mountain Minority Supplier Development Council, Hispanic Contractors of Colorado, and the Colorado Women's Chamber of Commerce. Notices will be published or provided no less than 10 calendar days before bids are due on the work.
- D. Contractor will conduct at least one pre-bid meeting, as announced in published notices, which all interested subcontractors and suppliers may attend, at which the Contractor will present information and answer questions about the work.
- E. In addition to Invitations to Bid, FCI uses online plan rooms and our website to advertise for bids from M/WBE businesses. Often, FCI will email personal letters to businesses that we have worked with before asking them to bid on certain projects. The FCI website address is [www.fcior.com](http://www.fcior.com)

- F. Once FCI is sent a Proposal Request by the City & County of Denver, a job walk is conducted with the City & County of Denver Project Manager to identify all scopes of work. After the scopes of work have been identified, FCI will advertise (time permitting) and contact subcontractors, using the City's M/WBE directory, that qualify to complete the scopes of work identified. As requested by Subcontractors, a second job walk is conducted and the plans are reviewed with any/all Subcontractors interested in bidding the project. Finally, Subcontractor bids are submitted to FCI and reviewed for the best value, before FCI's proposal is submitted to the City & County of Denver.
- G. The Contractor will send to each bidder/proposer, a Notice of Selection for each subcontract for which it solicited M/WBE participation, no later than 30 days after it has entered into the subcontract, so that unsuccessful bidders/proposers are aware of the result of the bid/proposal process.

#### **SECTION 5: M/WBE PARTICIPATION; MAINTAINING COMMITMENTS**

- A. When issuing additional scope packages for bid under the Contract, the Contractor will make a good faith effort to meet or exceed the goal percentage of M/WBE participation which it has identified for the contract. The minimum level of these efforts is specified in § 28-62(b), D.R.M.C. and Rule VII(B). They may include, but will not be limited to, the outreach activities identified in Section 4 above.
- B. When requested by DSBO, the Contractor will submit bid packages to DSBO for review and comment. When requested by DSBO, the Contractor will submit bid tabulation sheets to DSBO for review.
- C. The Contractor will report to DSBO the total M/WBE participation obtained. No later than 5 days after issuing Notice to Proceed for such work, the Contractor will submit to DSBO, for each M/WBE subcontractor or supplier with whom it contracts, a Letter of Intent and other documentation, in accordance with Section 6 below.
- D. The Contractor will document its efforts to obtain M/WBE participation for each work package, and submit such documentation to DSBO upon request by DSBO at any time. The Contractor acknowledges that it may meet or exceed a percentage goal for M/WBE participation on one or more work packages, but fall short of meeting the participation goal for the total construction contract amount. Therefore the Contractor must be able to demonstrate its good faith effort, consistent with § 28-62(b), D.R.M.C., to obtain M/WBE participation for each bid package under the contract, except for bid packages which are subject to a "modified good faith effort" under § 28-75(c), D.R.M.C., in which case the Contractor must be able to demonstrate its compliance with the requirements of § 28-75(c), D.R.M.C. Sections 28-62(b) and 28-75(c), D.R.M.C., are attached to this Compliance Plan as Attachment 1, for convenient reference.
- E. The M/WBE participation percentage will be calculated by dividing the total value of the M/WBE participation by the total contract amount, including all change orders. The

Contractor will count M/WBE participation according to the M/WBE Ordinance, including § 28-63, D.R.M.C., and Rule VII(C).

- F. As required by D.R.M.C. § 28-73, the Contractor shall immediately inform the DSBO in writing of any agreed-upon increase or decrease in the scope of work of the Contract, regardless of whether it has been reduced to writing at the time of notification. Any increase in the scope of work which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MBE or WBE under any subcontract, shall be contemporaneously submitted to the DSBO. Those changes to the scope of work that cannot be performed by existing project participants (the Contractor, subcontractors, suppliers, etc.) shall be subject to a goal for MBEs and WBEs equal to the original committed goal. The Contractor shall satisfy the goal for the changed scope of work by soliciting new MBEs or WBEs in accordance with § 28-60, D.R.M.C, and it must show each element of modified good faith that is stated in § 28-75(c), D.R.M.C. The Contractor shall provide to the Director the documentation described in § 28-75(c) with respect to the increased dollar value of the contract.
- G. The Contractor will comply with the provisions of § 28-75 as to the replacement of a WBE or MBE on the Project.
- H. The Contractor acknowledges that it has a continuing duty, under D.R.M.C. §§ 28-72, 28-73, and 28-75, to maintain, throughout the duration of the contract, compliance with the level of MBE and WBE participation committed to under any approved compliance plan, and that such commitment is a material condition of the Contract.

## **SECTION 6: COMPLIANCE DOCUMENTS AND REPORTING**

- A. The Contractor will submit the following documentation, properly completed and submitted monthly or when otherwise required by DSBO.

1. Prime contractor background information form\*
2. DSBO Schedule of Work form\*
3. Subcontractor background information form for all subcontractors\*
4. M/WBE Letters of Intent
5. Monthly contractor's certification of payment forms (participation report)
6. DSBO change order forms
7. M/WBE final lien release forms
8. B2G online payment verification

(\*due at NTP + 5 days; revisions as required)

- B. The Contractor will document its progress in seeking and obtaining M/WBE participation as required by DSBO. Records of the Contractor's efforts to solicit M/WBE subcontractor and supplier participation, will be maintained and reported monthly to DSBO, or as otherwise required, including:



1. Dates of solicitation
2. Names, addresses and telephone numbers of all M/WBE firms contacted.
3. Description of efforts made to contact M/WBE firms.
4. Description of information provided to M/WBE firms.
5. Description of the process and outcome.
6. Advertisements soliciting bids from M/WBE firms in local community publications or construction industry related publications.
7. Schedules of prebid meetings to inform M/WBE and non-M/WBE subcontractors and suppliers of opportunities to participate.
8. Evidence that the Contractor provided M/WBE subcontractors and suppliers necessary access to and adequate time to review all project documents.
9. All other documentation required to establish the Contractor's compliance with the good faith efforts required by City ordinance, specifically the items enumerated in subsections 28-62(b)(2) through 28-62(b)(10). D.R.M.C.

## **SECTION 7: PLAN ADMINISTRATION; MONITORING; CLOSEOUT**

- A. DSBO shall have prompt, full and complete access to all Contractor and subcontractor personnel, books and records required to monitor and assure performance of this Compliance Plan.
- B. The Contractor's personnel identified in Section 2 above, will be responsible for administering and monitoring the Contractor's performance of this Compliance Plan.
- C. Actual M/WBE participation will be calculated in accordance with the M/WBE Ordinance, including § 28-63, D.R.M.C., and applicable Rules. The Contractor will submit to DSBO a monthly tracking report demonstrating the M/WBE participation that has been achieved.
- D. The following milestones for review and reconciliation of M/WBE participation will be observed during the contract: FCI will conduct monthly reviews of M/WBE participation to ensure we are meeting or exceeding our M/WBE goals, to include but not be limited to, Proposal submission, Notice of Award, Pay application, and Notice of Final Payment.
- E. The Contractor acknowledges that the City may impose monetary penalties and/or withhold payment in the event of Contractor's non-compliance with the M/WBE Ordinance and this Compliance Plan.
- F. The Contractor will use the following methodology for final reconciliation of M/WBE participation performance achieved during the Contract term, measured against the established project goal. The Contractor will present copies of all signed DSBO Final Lien Release forms for MWBE firms utilized for participation on the Contract. DSBO will compare the Final Monthly Participation Report submitted by the Contractor to determine if the Final Lien Release dollar figures match what is contained within the Final Monthly Participation Report. Final Compliance shall be achieved when the Contractor establishes

to the Director's satisfaction, that it has remitted payments to M/WBE firms utilized on the Project; that it utilized M/WBE firms in accordance with each such firm's Letter of Intent; and that the amount of payments to M/WBE firms equals or exceeds the assigned M/WBE goal for the total amount of the Contract. Failure to achieve final compliance may subject the Contractor to sanctions, in accordance with D.R.M.C, Section 28-77. As provided in such ordinance, sanctions may include, but are not limited to, assessment by the Director of a monetary penalty against the Contractor in an amount not more than 150% of the contract amount for each MBE or WBE involved. Any such monetary penalty leveled by the Director shall be withheld from the final payment due to the Contractor, and any amount that remains due and owing to the City may be collected pursuant to D.R.M.C., Section 28-77. The Contractor may seek review of any such determination by the Director to levy sanctions through the dispute resolution process set forth in the Construction Contract.

#### **SECTION 8: NON-COMPLIANCE; SANCTIONS; REMEDIATION PLAN**

- A. At all times, DSBO shall monitor the Contractor's compliance with this Plan and the M/WBE Ordinance and Rules. The Contractor shall fully cooperate with DSBO's compliance monitoring and auditing efforts, including DSBO's investigation of any alleged or suspected non-compliance by the Contractor.
- B. If the Director has reason to believe that the Contractor is not in compliance with this Plan or with the M/WBE Ordinance, the Director shall give the Contractor written notice of non-compliance, citing the reasons why the Contractor is not in compliance, and giving the Contractor thirty (30) days in which to submit a remediation plan for the Director's review and acceptance. The remediation plan shall demonstrate how the Contractor will cure such non-compliance, and if such non-compliance consists of failure to obtain or maintain M/WBE participation at the committed level, that the Contractor's M/WBE participation level will again achieve the committed level, and that the Contractor will ultimately achieve the committed participation goal for the contract.
- C. The Contractor shall, within such thirty (30) day period, deliver to the Director a written remediation plan the Director's review and approval.
- D. The Director may issue a written determination of non-compliance and the sanction which the Director has elected to impose as a consequence:
  - (1) If the Contractor does not respond within the time allowed; or
  - (2) If the Contractor fails to submit a satisfactory remediation plan; or
  - (3) If a Contractor submits an acceptable remediation plan but thereafter fails to comply with the plan.

- E. The Contractor may contest a determination issued under Section 8(D), by requesting a hearing within 30 days after the date of such determination, as provided in § 28-33, D.R.M.C.

## SECTION 9: MEDIATION

The Contractor will provide a process to resolve disputes that occur between a MBE or WBE and any non-M/WBE subcontractors or suppliers under the Contract. The Contractor will document such disputes and inform DSBO of the steps the Contractor plans to take to resolve the dispute. The Contractor may ask DSBO to assist in the resolution process it has developed. The Contractor will document and notify DSBO if those disputes have been resolved and inform DSBO of any disputes it was unable to resolve. DSBO will notify the Contractor of any complaints received by DSBO from M/WBE firms regarding a dispute they are experiencing with either a subcontractor or the Contractor.

IN WITNESS WHEREOF, Contractor has executed and agrees to abide by the terms of this Compliance Plan as of the 4 day of August, 2017.

Contractor

By:  \_\_\_\_\_

## ATTACHMENT 1

### EXCERPTS FROM DENVER REVISED MUNICIPAL CODE

*Sections 28-62(b) and 28-75(c), D.R.M.C*

#### **Sec. 28-62. Same--Good faith efforts.**

(b) The statement of good faith efforts shall include a specific response and verification with respect to each of the following good faith effort categories, which may be further defined by rule or regulation. A bidder or proposer may include any additional information it believes may be relevant. Failure of a bidder or proposer to show good faith efforts as to any one (1) of the following categories shall render its overall good faith effort showing insufficient and its bid or proposal non-responsive:

- (1) If prebid or preselection meetings are scheduled by the city at which MBEs and WBEs may be informed of subcontracting or joint venture opportunities under a proposed contract to be bid, or procured pursuant to the competitive selection process, attendance at such prebid or preselection meetings is not mandatory; however, bidders and proposers are responsible for the information provided at these meetings.
- (2) The bidder or proposer must solicit through all reasonable and available means, the interest of all MBEs and WBEs certified in the scopes of work of the contract. The bidder or proposer must solicit the interest of such MBEs and WBEs within sufficient time, prior to the bid opening or date of final project-specific proposal in the case of a competitive selection process, to allow such MBEs and WBEs to respond to the solicitation. The bidder or proposer must determine with certainty if the MBEs and WBEs are interested by demonstrating appropriate steps to follow up initial solicitations.
- (3) The bidder or proposer must select portions of the work of the contract to be performed by MBEs and WBEs in order to increase the likelihood that the project goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE and WBE participation as subcontractors or joint venturers, and for bidder or proposer self-performed work, as suppliers, manufacturers, manufacturer's representatives and brokers, all reasonably consistent with industry practice, even when the bidder or proposer would otherwise prefer to perform these work items with its own forces. The bidder or proposer must identify what portions of the contract will be self-performed and what portions of the contract will be opened to solicitation of bids, proposals and quotes from MBE and WBEs. All portions of the contract not self-performed must be solicited for MBE and WBE participation. The ability or desire of a bidder or proposer to perform the work of a contract with its own forces does not relieve the bidder or proposer of the responsibility to meet the project goal or demonstrate good faith efforts to do so.
- (4) The bidder or proposer, consistent with industry practice, must provide MBEs and WBEs at a clearly stated location with timely, adequate access to and information about the plans, specifications, and requirements of the contract, including bonding and insurance requirements, if any, to assist them in responding to a solicitation.

- (5) The bidder or proposer must negotiate in good faith with interested MBEs and WBEs and provide written documentation of such negotiation with each such MBE or WBE.
- (6) For each MBE or WBE which contacted the bidder or proposer or which the bidder or proposer contacted or attempted to subcontract or joint venture with, consistent with industry practice, the bidder or proposer must supply a statement giving the reasons why the bidder or proposer and the MBE or WBE did not succeed in negotiating a subcontracting, supplier, manufacturer, manufacturer's representative, broker or joint venture agreement, as applicable.
- (7) The bidder or proposer must provide verification that it rejected each non-utilized MBE and WBE because the MBE or WBE did not submit the lowest bid or it was not qualified. Such verification shall include a verified statement of the amounts of all bids received from potential or utilized subcontractors, suppliers, manufacturers, manufacturer's representatives, brokers or joint venturers on the contract, whether or not they are MBEs or WBEs. In making such a determination of not being qualified, the bidder or proposer shall be guided by the definition of qualified in section 28-54(42), but evidence of lack of qualification must be based on factors other than solely the amount of the MBE's or WBE's bid. For each MBE or WBE found not to be qualified by the bidder or proposer, the verification shall include a statement giving the bidder's or proposer's reasons for its conclusion. A bidder's or proposer's industry standing or group memberships may not be the cause of rejection of an MBE or WBE. A bidder or proposer may not reject an MBE or WBE as being unqualified without sound reasons based on a reasonably thorough investigation and assessment of the MBE's or WBE's capabilities and expertise.
- (8) If requested by a solicited MBE or WBE, the bidder or proposer must make reasonable efforts to assist interested MBEs and WBEs in obtaining bonding, lines of credit, or insurance as required by the city or by the bidder or proposer, provided that the bidder or proposer need not provide financial assistance toward this effort.
- (9) If requested by a solicited MBE or WBE, the bidder or proposer must make reasonable efforts to assist interested MBEs and WBEs in obtaining necessary and competitively priced equipment, supplies, materials, or related assistance or services for performance under the contract, provided that the bidder or proposer need not provide financial assistance toward this effort.
- (10) The bidder or proposer must use the DSBO MBE/WBE directories to identify, recruit, and place MBEs and WBEs.

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**Sec. 28-75. Potential violations during contract performance.**

(c) The following modified good faith requirements shall apply to sections 28-72 and 28-73. In the event that a contractor or consultant must add or replace an MBE or WBE subcontractor, subconsultant, joint venturer, supplier, manufacturer, manufacturer's representative or broker or in the event that a new scope of work is added to the ongoing contract, and the contractor or consultant in such event is in non-compliance with maintenance of the original project goal upon which the contract was awarded, due to failure to utilize additional MBEs or WBEs, the following modified good faith efforts must be completed. Failure of a contractor or consultant to show good faith efforts as to any one (1) of the following categories shall render its overall good faith efforts showing insufficient; and its contract performance in non-compliance with this division 3.

- (1) Verification in writing to the DSBO of the contractor's or consultant's intention to terminate or replace an MBE or WBE originally identified for participation in the bid, proposal or competitive selection process proposal upon which the contract was awarded. The reason for the termination or replacement must be stated and the type of work or services must be identified.
- (2) Verification that the contractor or consultant used the most current MBE and WBE directory from the DSBO in order to contact MBEs and WBEs that are certified in the applicable area of work or supply at the time of the modified good faith effort.
- (3) Verification of efforts to contact appropriate MBEs and WBEs within the same identified subcontractor, subconsultant, joint venturer, supplier, manufacturer, manufacturer's representative or broker area must be documented. Facsimile transmission, e-mail and telephone communication will be acceptable. The director may verify such contacts as he deems appropriate.
- (4) Documentation of the modified good faith efforts must be submitted to the DSBO prior to the payment to the contractor or consultant of the next progress or other partial payment or fund release under the contract.

## EXHIBIT D

### PRECONSTRUCTION SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into, effective as of the date set forth on the City's signature page below ("**Effective Date**") this, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("City"), and **FCI CONSTRUCTORS, INC**, a Colorado corporation, whose mailing address is 4001 North Valley Drive, Longmont, Colorado 80504 ("Contractor").

#### RECITALS

1. The Denver 911 Communication Center Relocation Project scope includes moving the following components of the Denver 911 program from the current location at 950 Josephine to 12025 East 45th Avenue: emergency call takers, police department dispatchers, fire department dispatchers, emergency medical service dispatchers, technology services support staff, communication center training staff and the 911 management team. Additionally, the technology infrastructure and communication systems are an equally important components of the communication center operation and the design and final installation of these systems is critical to successfully operate a 911 Communication facility.

2. In order to complete the Project in a timely, efficient and cost effective manner, the City desires to engage a highly qualified and experienced contractor to expeditiously perform preconstruction services including and without limitation, scheduling, cost estimating, constructability review, value engineering, construction packaging and sequencing, subcontractor canvassing and all other preconstruction services necessary to complete a satisfactory final design and construction pricing for the Project.

3. In addition to performing preconstruction services, the Contractor will deliver to the City a Guaranteed Maximum Price proposal ("GMP Proposal") and fixed Project completion schedule proposal (the "Performance Period" or "Schedule") by which the Contractor will agree to perform all of the construction services and other work required to complete the Project for a guaranteed maximum price.

4. In accordance with the requirements of 20-56 of the Denver Revised Municipal Code (the "DRMC"), the City advertised a Request for Qualifications (RFQ) and a Request for Proposal ("RFP") (Attached as **Exhibits A and B**) seeking highly qualified contractors to provide preconstruction and construction services for the Project.

5. The Contractor was selected as the first ranked proposer to perform such services for the City based on Contractor's Proposal dated June 24, 2016 and attached hereto as **Exhibit C**.

6. The City and Contractor now wish to enter into this Agreement to provide preconstruction services. The City may, in its sole discretion, elect to enter into a CM/GC Construction Contract with Contractor at a later date.

7. The Contractor represents that it has the present capacity and is experienced and qualified to perform the required professional and related services as provided for in this Agreement.

8. The Contractor will perform all such services as an independent contractor.

**NOW, THEREFORE**, in consideration of the mutual agreements contained herein, the parties agree as follows:

## **1.0 PROJECT AND BUDGET:**

### **1.1 The Project.**

**1.1.1** The "Project" includes the construction of a Denver 911 Communications Center.

**1.1.2** The "Project Site", "Site" and "Limits of Construction for the Project" are:  
12025 East 45<sup>th</sup> Avenue.

**1.2 Project Format.** The terms, conditions and obligations for the Contractor's performance on this Project are contained herein or in documents referenced herein or attached hereto and shall be collectively referred to as the "Agreement." In the performance of this Agreement, the Contractor acknowledges and accepts that time is critical for Project delivery. The City has elected to utilize a Construction Manager/Contractor ("CM/GC") Project delivery method. The Contractor is familiar with this approach and understands that the CM/GC method is a specialized and rigorous delivery approach requiring maximum cooperation between all parties. As a consequence of the delivery approach, the Contractor acknowledges and accepts the following: (1) that the complete services to be rendered by the Contractor, the organizational and process inter-relationships governing construction and the cost, schedule and sequencing of construction may not yet have fully been defined; (2) that portions of the Project could have their design completed as separate packages and under construction before other portions of the Project are fully designed; and (3) that the Contractor's continuing performance on this Project is contingent upon the Contractor formulating, as the Project design progresses, and submitting an acceptable GMP (or multiple GMP packages) and Performance Period proposal (the "GMP Proposal") for the complete construction of the Project.

**1.3 Budget.** The Contractor acknowledges that there are limited funds available to design and construct the Project. The City's construction budget for this Project is: **FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$50,000.00)** (the "Project Budget") and is subject to increase or decrease at the sole discretion of the Manager of Public Works, prior to establishing a GMP for the Construction Services Phase of the Project.

## **2.0 ENGAGEMENT AND COORDINATION:**

**2.1 Engagement.** The City engages the Contractor with respect to the furnishing of preconstruction services in connection with the design and construction of the Project and the Contractor accepts such engagement upon, subject to and in accordance with the terms, conditions and provisions of this Agreement.

**2.2 Executive Director of Public Works.** The City's Executive Director of Public Works ("Manager" or "Executive Director") is the City's representative responsible for authorizing and approving the work performed under this Agreement. The Manager hereby designates the City Engineer as the Manager's authorized representative for the purpose of designating a Project Manager, issuing a written Notice to Proceed and administering, coordinating, reviewing and approving the work performed and services provided by the Contractor under this Agreement. The Project Manager shall be designated by the City Engineer and shall report to the City Engineer or designee. The Project Manager shall be responsible for the day-to-day administration, coordination and approval of services provided and work performed by the Contractor, except for those approvals identified in this Agreement as requiring Manager or City Engineer approval. The Manager expressly reserves the right to designate another authorized representative to perform on



the Manager's behalf by written notice to the Contractor. The Contractor acknowledges and accepts that only the Executive Director of Public Works and the representatives designated herein have the authority to authorize or direct services or work under this Agreement. The Safety Department ("User Agency"), is the City agency responsible for the maintenance of the facility and the City's expending authority for the Project.

**2.3 Relationship.** The Contractor accepts the relationship of trust and confidence established between the Contractor and the City by this Agreement and shall furnish its best skill and judgment and cooperate with the Executive Director and the designees, including the City Engineer and the Project Manager, representatives of the Mayor's Office, User Agency and the other City consultants and contractors in furthering the interests of the City throughout the duration of this Agreement.

**2.4 Design Consultant.** The City has a separate agreement with the Design Consultant Team to design the Project and to provide limited design support during the construction. Both the Contractor and the Design Consultants shall be given direction by the City, or the City's designated and authorized representatives. The relationship between the Contractor and the Design Consultant is intended to be cooperative and proactive, both participating on the same team with the City.

**2.5 Construction Team.** The Contractor, the City and the Design Consultant Team (the "Construction Team") shall cooperate and coordinate to complete the design and provide preconstruction services. The Contractor shall provide leadership to the Construction Team on matters relating to construction.

**2.6 Coordination and Cooperation.**

**2.6.1** The Contractor agrees to cooperate and coordinate fully with the City and the Designer in the design aspects of the Project to keep within the City monetary and time limitations.

**2.6.2** With the exception of those notices that must be directed to the Manager, all written communication by the Contractor to or with the City shall be forwarded through the Project Manager. In addition, all communication from the City to or with the Contractor shall be forwarded through the Project Manager. All written communication between the Contractor and the Design Consultant, other City representatives, the User Agency, City consultants or any governmental entity or third party will require that copies or notice thereof will be provided by the Contractor to the Project Manager.

**2.6.3** The Contractor shall, as a continuing work item under this Agreement, facilitate communications regarding its performance hereunder between the City's Department of Public Works, the Project Manager, the User Agency, other City consultants and any affiliated entities. In addition, the Contractor shall conduct and coordinate its efforts under this Agreement with all involved entities including the Department of Public Works, the User Agency, other City representatives, other involved City agencies and any involved government and regulatory entities. The Contractor shall document all Contractor conducted meetings and work sessions and distribute minutes or notes of such meetings to the Project Manager, in a format approved by the Project Manager.

**3.0 REPRESENTATIONS:** The Contractor represents and covenants to the City that:

**3.1** The Contractor's members shall include adequate personnel qualified and experienced in the construction of facilities similar to the Project in time constraints, complexity and cost.

**3.2** The Contractor will thoroughly review and will become fully familiar with the Project scope, requirements and constraints including: (1) the goals and objectives of the Project; (2) User Agency needs and requirements; (3) the Design Consultants' work effort to date, agreement and any referenced documents; (4) the schematic design drawings and specifications and any associated information or materials; (5) the Project site (the "Site"), local conditions and all related limitations and constraints; and (6) its budget assumptions and scheduling constraints, as follows:

The Contractor accepts the same and affirmatively states that the Project, as expressed by the Project scope, requirements, and constraints at the time of execution of this Agreement, is a reasonable and constructible conceptual Project, incorporating a reasonable and workable delivery approach and schedule. Further the Contractor will promptly notify the City in the event the Project, as developed during the Preconstruction portion of the project, is not reasonable or constructible, given the schedule, budget, and other Project requirements.

**3.3** The Contractor agrees that all of the services and work performed by the Contractor under this Agreement shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to the services described in this Agreement.

#### **4.0 PERSONNEL:**

**4.1** Those persons listed in **Exhibit C** are the principals and employees of the Contractor (the "Key People") and the City desires that they be and remain assigned to the Project.

**4.2** It is the intent of the parties hereto that all Key People be engaged to perform their specialty for all such services required by this Agreement, and that the Contractor's and any subcontractor Key People be retained for the duration of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed hereunder.

**4.3** If any of the Key People become unavailable for reasons beyond the control of the Contractor, then the Contractor, subject to the Manager's approval, shall promptly appoint a replacement. The Contractor shall provide the Project Manager with complete information on each replacement, including a current resume, and shall have the opportunity to interview any such replacement.

**4.4** If during the term of this Agreement, the Manager determines that the performance of approved Key People for the Contractor or a subcontractor is not acceptable, the Project Manager shall notify the Contractor and give the Contractor a reasonable period of time to correct such performance. Thereafter, the Manager may require the Contractor to reassign or replace such Key People. If the Manager notifies the Contractor that certain of its Key People or those of a subcontractor should be replaced, the Contractor will use its best efforts to replace and require its subcontractor to replace them within ten (10) days from the date of the Manager's notice.

**4.5** Neither the Contractor nor any subcontractor shall have interests which are in conflict with interests of the City, including connection with or to the sale or promotion of equipment or material which may be used on the Project, and the Contractor shall make written inquiry of all of its subcontractors concerning the existence of or potential for such conflict. In unusual circumstances, and at the City's sole discretion, the City may grant a written waiver for the particular consultant or subcontractor.

**5.0 BASIC SERVICES:** The Contractor's Basic Services performed under this Agreement shall include all services and work effort required: (1) to assist in providing a complete and

constructible "Project Design;" (2) to advise the Design Consultants in providing a Project design which, if constructed in accordance with the design, will satisfy all Project objectives, requirements and constraints set forth herein; and (3) assist the Design Consultant in maintaining the Budget. Such required services and work effort will include, without limitation, cost estimating, bid schedule refinement and project schedule verification constructability review, value engineering and development of deductive and additive alternates, scheduling, construction sequencing and bid packaging, bidding and subcontracting. Contractor's Basic Services under this agreement includes all services and work set forth in **Exhibit C.** All of the duties, obligations, services and work specified in the terms, provisions and conditions of this Agreement as well as all other Preconstruction services normally and customarily performed by a Construction Manager on a Project of this size and nature shall comprise the Contractor's "Basic Preconstruction Services."

**6.0 COMPENSATION:** In accordance with the terms and conditions of this Agreement, the City agrees to pay and the Contractor agrees to accept, as full and complete compensation for all services required by this Agreement to complete the Basic Services, the following compensation:

**6.1 Basic Services.** The Contractor's Basic Services shall consist of all preconstruction and related work and services set forth in Article 5 and **Exhibit C.** The Contractor shall be compensated for all such services performed on a lump sum basis. The maximum amount payable for all Basic Services shall be the lump sum amount of **\$50,000.00 DOLLARS AND ZERO CENTS (\$50,000.00)**. Compensation shall be paid to the Contractor monthly, based upon pay applications and progress reports accepted and approved by the Project Manager. Upon successful completion of Pre-Construction Services, the City may in its sole discretion elect to execute a CM/GC Construction Contract with Contractor.

**6.2 Reimbursable Expenses.** All expenses shall be included in the basic services fee and will not be separately reimbursed hereunder.

**6.3 Maximum Contract Amount:** The "Maximum Contract Amount" to be paid by the City to the Contractor under this Agreement shall not exceed the sum of **FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$50,000.00)**.

**6.4 Funding.** It is expressly understood and agreed by the Contractor that the Contractor is undertaking this performance for a "not to exceed", maximum fee for the Project. It is further understood and agreed by the Contractor that the total obligation of the City for all or any part of its payment obligations hereunder, whether direct or contingent, shall in no event extend beyond payment of the lesser of the amounts duly and lawfully encumbered for the purposes of the Agreement or the Maximum Contract Amount set forth above. The City has, as of the date first set forth above, duly and lawfully encumbered the sum of **FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$50,000.00)** for the purposes of this Agreement. With respect to all such performance and funding, the Contractor understands and agrees that the provision of any services which would cause the total amount payable to Contractor to exceed the amount of previously encumbered funds, is strictly prohibited. In the event the continuation of services by the Contractor would cause the amount payable to Contractor to exceed the amount payable under Sections 6.1 and 6.2, the Contractor agrees to give the Project Manager at least four (4) weeks' written notice of the exhaustion of available funds. In the event additional funds are not made available within such four (4) week period, the Contractor agrees to stop providing services until such time as additional funds are made available and encumbered for the purposes of the this Agreement. It shall be the responsibility of the Contractor to verify that the amounts already encumbered are sufficient to cover

the entire cost of such work. Work or services performed in excess of the amount encumbered or outside the scope of authorized work or services is undertaken or performed in violation of the terms of this Agreement and, as such, at the Contractor's own risk and sole cost and expense. Funding for the Project has been budgeted over several years, and the City reserves the right to suspend work and the Contractor will not be compensated monetarily for the time delay.

**6.5 Payment of Invoices.** The Contractor shall prepare and submit to the Project Manager project reports and monthly invoices of all amounts due the Contractor for the preceding period with time records (payment will be made based upon percentage complete) under the provisions of this Article. The Manager or appointed designee will review and either approve or disapprove in whole or in part each properly completed invoice prior to submission for payment by the City. The Manager or appointed designee shall promptly notify the Contractor, in writing, of the basis for any partial or complete disapproval and return any submitted documentation, as required. No charges shall be incurred under this Agreement and no payments shall come due to the Contractor until such time as the City has confirmed to its satisfaction that the work and services have been performed in accordance with the terms and conditions of this Agreement.

**6.6 Withholdings and Final Payment.** The City may withhold, in its sole discretion, payment to the Contractor of any sum or a portion of any sum invoiced for failure or refusal of the Contractor to reasonably satisfy or comply with any material obligation, term, condition or requirement of this Agreement and may deduct, such other amounts as provided for elsewhere in this Agreement. Prior to withholding, however, the City shall provide the Contractor with five (5) days notice of any such failure or refusal and an opportunity to commence to cure that will not exceed such five (5) day period. All sums withheld pursuant to this paragraph shall be released only upon a showing, satisfactory to the Manager, that the failure or refusal resulting in the withholding has been removed, resolved, or cured by the Contractor.

## **7.0 TERM AND TERMINATION:**

**7.1 Term.** The Term of this Agreement shall commence on July 1, 2016 and expire on April 7, 2017, unless sooner terminated as provided in this Agreement.

**7.2 Termination for Default for Nonperformance.** Failure or refusal of the Contractor to perform any material obligation under this Agreement shall constitute default. In the event of any default, in addition to any other remedy available to the City, after providing ten (10) days' prior written notice of and opportunity to cure such default, this Agreement may be terminated by the City if such default is not cured to the satisfaction of the City. No new performance under the Agreement will be undertaken after the date of receipt of any notice of termination (the effective date of termination). In the event of such termination, the Contractor will be paid for those services satisfactorily performed in accordance with the requirements of this Agreement up to the effective date of termination. Such termination shall not waive any other legal remedies available to the City.

**7.3 Termination for Default for Bankruptcy.** In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors then, at the option



of the other party, this Agreement shall terminate and be of no further force and effect, and any property or rights of such other party, tangible or intangible, shall forthwith be returned to it.

**7.4 Termination for Default for Criminal Conduct.** The City may, by written Notice of Default to the Contractor, terminate the whole or any part of this Agreement in the event the Contractor or any of its officers are convicted, plead nolo contendere, or enter into a formal agreement for deferred prosecution or sentencing, 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, violation of the Racketeer Influenced and Corrupt Organizations Act (R.I.C.O.) or substantially similar state statute or any offense of a similar nature, in connection with the Contractor's business.

**7.5 Termination for Convenience of City.** The City may terminate this Agreement for the City's convenience and without cause at any time by giving the Contractor ten (10) days' written notice of such termination. In the event of such termination, the Contractor shall cease performance under this Agreement upon receipt of such written notice of termination and the Contractor will be paid only for its costs incurred in accordance with the provisions of this Agreement, up to the date of termination specified in the notice of termination.

**7.6 Recovery of Termination Costs Strictly Precluded.** Except for reasonable, actual termination costs, the City shall not be liable for any costs incurred by the Contractor after the effective date of termination. Such non-recoverable costs shall include, but are not limited to anticipated profits, post-termination employee salaries, post-termination administrative expenses, or any other damages, costs or expenses which are not authorized under this Article. Following such termination, the Contractor will submit a final invoice to the City for the amount which represents the compensation actually due and owing for the Contractor performance prior to the effective date of termination and for which the Contractor has not previously been compensated. Upon approval and payment of this final invoice by the City, the City shall be under no further obligation to the Contractor for payment under this Agreement and all other claims shall be waived.

## **8.0 INSURANCE AND INDEMNITY:**

### **8.1 Insurance:**

**8.1.1 General Conditions:** 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. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of 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, 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. 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.

**8.1.2 Proof of Insurance:** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as **Exhibit D**, preferably an ACORD certificate, 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 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.

**8.1.3 Additional Insureds:** For Commercial General Liability and Auto Liability, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

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

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

**8.1.6 Workers' Compensation/Employer's Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

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

**8.1.8 Business Automobile Liability:** Contractor shall maintain Business Automobile Liability, or its equivalent, 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, 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 an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.

**8.1.9 Professional Liability (Errors & Omissions):** Contractor shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

**8.1.10 Additional Provisions:**

**8.1.10.1** For Commercial General Liability and Excess Liability, the policies must provide the following:

- a. That this Agreement is an Insured Contract under the policy;
- b. Defense costs are outside the limits of liability;
- c. A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and;
- e. A provision that coverage is non-contributory with other coverage or self-insurance provided by the City.

**8.1.10.2** For claims-made coverage: The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

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

**8.2 Indemnification:**

**8.2.1** To the fullest extent permitted by law, the Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or related to the work performed under this Agreement that are due to the negligence or fault of the Contractor or the Contractor's agents, representatives, subcontractors, or suppliers ("Claims"). This indemnity shall be interpreted in the broadest possible manner consistent with the applicable law to indemnify the City.

**8.2.2** 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 suit has been filed and even if Contractor is not named as a Defendant.



**8.2.3** Contractor will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

**8.2.4** Insurance coverage requirements specified in this Agreement shall 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.

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

**9.0** **STANDARD OF CARE:** The Contractor agrees that all of the work performed and services rendered by the Contractor and its subconsultants under this Agreement shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform work or render services of a similar nature to the work or services described in this Agreement.

**10.0** **COMPLIANCE WITH LAWS AND REGULATIONS:**

**10.1** **Laws and Regulations.** The Contractor shall be responsible for the compliance of all activities undertaken by it pursuant to this Agreement with all applicable laws and regulations, including without limitation the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. In the performance of its services, the Contractor shall assist the Design Consultant(s) as may be necessary to fully comply with such laws and regulations or receive governmental approvals for the Project. The Contractor further agrees to perform all services for the Project in strict compliance with all applicable laws, statutes, codes, ordinances, rules and regulations, and industry standards in effect at the time of the execution of this Agreement until all services called for under this Agreement have been completed and accepted by the City. Notwithstanding the foregoing, the City agrees that it is not the Contractor's responsibility to assure that the drawings and specifications are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations.

**10.2** **Governmental Authorities.** The Contractor shall perform all of its duties, obligations and services, hereunder in a manner that complies with the City's directions to the Contractor and/or the City's obligations under law to consult with, solicit advice from and involve in the City's decision-making process, all applicable governmental or quasi-governmental authorities having jurisdiction over the Project and the surrounding area, including, but not limited to, the State of Colorado and any agency or department thereof, and the City and County of Denver, and any agency or department thereof.

**10.3** **No Discrimination In Employment.** In connection with the performance of its work under this Agreement, the Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder



**10.4 Licensing Requirements.** The Contractor shall comply, at its own expense, with all laws and regulations, including, but not limited to, licensing requirements pertaining to its professional status and that of its employees, partners, associates, consultants under subcontract and others employed to render the services called for by this Agreement.

**10.5 Certification under § 8-17.5-102, C.R.S.**

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

**10.5.2** The Contractor certifies that:

**10.5.2.1** At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

**10.5.2.2** It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

**10.5.3** The Contractor also agrees and represents that:

**10.5.3.1** It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

**10.5.3.2** It shall not enter into a contract with a subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

**10.5.3.3** It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in either the E-Verify Program.

**10.5.3.4** It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Contractor to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

**10.5.3.5** If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.

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

**11.0 OWNERSHIP OF DOCUMENTS; CONFIDENTIAL INFORMATION:**

**11.1 Ownership of Documents.** The data used in compiling, and the results of, any tests, surveys or inspections at the Site, as well as all photographs, drawings, specifications, studies, audits, reports, models and other items of like kind prepared by the Contractor, its employees and consultants, excluding proprietary systems such as estimating programs, shall be the property of the City whether the Project for which they are made is executed or not, but the Contractor shall be permitted to retain reproducible copies of all of the foregoing documents for the information and reference, and the originals of all of the foregoing documents including all electronic format copies shall be delivered to the City promptly upon completion thereof. All work products prepared by the Contractor under this Agreement, when delivered to and accepted by the Manager, shall become the property of the City and the City shall have unlimited ownership rights. Further, the Contractor agrees to allow the City to review any of the procedures used in performing the work and services hereunder, and to make available for inspection the field notes and other documents used in the preparation for and performance of any of the services and work performed hereunder. With respect thereto, the Contractor agrees to and does hereby grant to the City an exclusive royalty-free license to all data which the Contractor may cover by copyright.

**11.2 City Information:** The Contractor understands and agrees that, in performance of this Agreement, the Contractor may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. The Contractor agrees that all information disclosed by the City to the Contractor shall be held in confidence and used only in performance of the Agreement. The Contractor shall exercise the same standard of care to protect such information as a reasonably prudent Contractor would to protect its own proprietary data.

**11.3 Contractor Information:** The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act, C.R.S. 24-72-201, et seq., and that in the event of a request to the City for disclosure of such information, the City shall advise the Contractor of such request in order to give the Contractor the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material. The Contractor further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Contractor's intervention to protect and assert its claims of privilege against disclosure under this Section including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

**11.4 Patent, Copyright and Trade Secret Indemnity.** Notwithstanding any other provision hereof, the Contractor shall save, defend and hold harmless the City from all loss, damage, or liability for, or by reason of, any actual or alleged infringement of any United States

Patent, Copyright, or Trade Secret disclosure arising out of the Contractor's performance under this Agreement.

**12.0 CONTRACTOR'S ACCOUNTING RECORDS:** Records of the Contractor's direct personnel, consultant and reimbursable expenses pertaining to this Project and records of accounts between the City and the Contractor shall be kept on a generally accepted accounting basis and shall be available to the representatives of the City, including the Auditor of the City, or his authorized representative within the City, at mutually convenient times for three (3) years after the final payment under this Agreement.

**13.0 SUPPLEMENTAL DOCUMENTS:** The following documents are attached hereto and/or incorporated herein and made a part of this Agreement:

**Exhibit A** - Request for Qualifications (Incorporated by Reference).

**Exhibit B** – Request for Proposal. (Incorporated by Reference).

**Exhibit C** - Proposal

**Exhibit D** - ACORD Certificate of Insurance.

**14.0 TIME IS OF THE ESSENCE:** The parties agree that in the performance of the terms, conditions and requirements of this Agreement by the Contractor, time is of the essence.

**15.0 DISPUTES:** All disputes of any nature whatsoever regarding the Agreement, including but not limited to those involving damages or time extensions for delay, equitable adjustments, or other claims for compensation by the Contractor, including but not limited to disputes going to the breach or default of this Agreement, shall be exclusively resolved by administrative hearing pursuant to the provisions of D.R.M.C. Section 56-106, or, with respect to appropriate issues involving minority and women business enterprise contracting, by D.R.M.C. Section 28-33. For the purposes of this Agreement, the Manager, with respect to Section 56-106, DRMC disputes, and the Director of the Division of Small Business Opportunity, with respect to Section 28-33, DRMC disputes, have independently determined that the City's best interests are served by designating as the hearing officer a person retained for that purpose by contract under Charter Section A2.3-10. The Contractor expressly agrees that this dispute resolution process is the only dispute resolution mechanism that will be recognized by the parties for any claims put forward by the Contractor, notwithstanding any other claimed theory of entitlement on the part of the Contractor or its subcontractors or other consultants.

**16.0 MISCELLANEOUS PROVISIONS:**

**16.1 Taxes and Licenses.** The Contractor shall promptly pay, when they are due, all taxes, excises, license fees and permit fees of whatever nature applicable to the work and services which it performs under this Agreement, and shall take out and keep current all required municipal, county, state or federal licenses required to perform its services under this Agreement. The Contractor shall furnish the Manager, upon request, duplicate receipts or other satisfactory evidence showing or certifying to the proper payment of all required licenses and/or registrations and taxes. The Contractor shall promptly pay all owed bills, debts and obligations it incurs performing work under this Agreement and shall not allow any lien, verified claim, mortgage, judgment or execution to be filed against land, facilities or improvements owned or beneficially owned by the City as a result of such bills, debts or obligations.

**16.2 Status of Contractor.** The status of the Contractor shall be that of an independent contractor retained on a contractual basis to perform preconstruction services for limited periods of time as described in Section 9.1.1.E(x) of the Charter of the City and it is not intended, nor shall it be construed, that the Contractor, or any member of its staff or any consultant, is an employee, officer or agent of the City under Chapter 18 of the Denver Revised Municipal Code or for any purpose whatsoever.

**16.3 Rights and Remedies Not Waived.** Payment by the City shall not constitute a waiver of any breach of covenant or default which may then exist on the part of the Contractor. No assent, expressed or implied, to any breach of the Agreement shall be held to be a waiver of any later or other breach.

**16.4 Subject to Local Laws, Jurisdiction, Venue.** Each and every term, provision or condition in this Agreement is subject to and shall be construed in accordance with the provisions of Colorado law, the Charter of the City and County of Denver and the ordinances, regulations, Executive Orders, and/or fiscal rules, enacted and/or promulgated pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set forth herein by this reference. Venue for any action or proceeding arising out of, or relating in any way to this Agreement, or the breach thereof, shall be in the City and County of Denver, Colorado.

**16.5 Conflict of Interest.** The Contractor agrees that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the Contractor further agrees not to hire or contract for services any official, officer, or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.2.9 and 1.2.12.

**16.6 Waiver of C.R.S. 13-20-802 et. seq.:** With respect solely to the City, the Contractor specifically waives all the provisions of Chapter 8 of Article 20 of Title 13, Colorado Revised Statutes (also designated C.R.S. 13-2-802 et seq.) relating to design defects in the Project under this Agreement.

**16.7 No Third Party Relationship.** Nothing Contained in this Agreement shall create a contractual relationship with, an obligation to, or a cause of action in favor of any third party as against either the City or the Contractor.

**16.8 Taxes, Charges and Penalties.** The City and County of Denver shall not be liable for the payment of taxes, late charges, or penalties of any nature.

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

**16.10 Notices.** Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to the parties at the addresses set forth herein or at such other address as either party may hereafter or from time to time designate by written notice to the other party given in accordance herewith. Notice shall be

considered received on the day on which such notice is actually received by the party to whom it is addressed, or the third (3rd) day after such notice is mailed, whichever is earlier. Unless changed in writing, such notices shall be mailed to:

To the Contractor: FCI Constructors, Inc.  
4001 North Valley Drive  
Longmont, Colorado 80504

To the City: Exec. Dir. of Public Works  
201 West Colfax Avenue, Dept. 608  
Denver, Colorado 80202

with a copy to: Project Manager  
Department of Public Works  
201 West Colfax Avenue, Dept. 506  
Denver, Colorado 80202

**16.11 Survival of Certain Contract Provisions.** All terms and conditions of this Agreement, together with the exhibits and attachments hereto, which, by reasonable implication, contemplate continued performance or compliance beyond the termination of this Agreement (by expiration of the term or otherwise), shall survive such termination and shall continue to be enforceable as provided herein. Without limiting the general applicability of the foregoing, the Contractor's obligations for the provision of insurance and to indemnify the City shall 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.

**16.12 Paragraph 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.

**16.13 Severability.** If any provision, term, or part of this Agreement, except for the provisions of this Agreement requiring prior appropriation and limiting the total amount to be paid by the City, is held to be invalid, illegal, unenforceable, or in conflict with any law of the State of Colorado, the validity, legality, and enforceability of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

**16.14 Construction of Terms.** The language in this Agreement shall be construed according to its customary meaning within the building industry in the Denver metropolitan area. Whenever used, the singular numbers shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders.

**16.15 Agreement as Complete Integration; Amendments.** This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion or other amendment shall have any force or effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement executed by the parties and signed by the signatories to the original Agreement. This Agreement and any amendments shall be binding upon the parties, their successors and permitted assigns.



**16.16 Electronic Signatures and Electronic Records:** Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[SIGNATURE PAGES FOLLOW]**

**Contract Control Number:** PWADM-201628868-00

**Contractor Name:** FCI CONSTRUCTORS INC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of August 16, 2016.

SEAL



**CITY AND COUNTY OF DENVER**

ATTEST:

Debra Johnson  
Debra Johnson, Clerk and Recorder,  
Ex-Officio Clerk of the City and  
County of Denver

By Michael B Hancock  
Michael B Hancock, Mayor

APPROVED AS TO FORM:

Attorney for the City and County of  
Denver

By Robert Wheeler  
Robert Wheeler, Assistant City  
Attorney

REGISTERED AND COUNTERSIGNED:

By Brendan J Hanlon  
Brendan Hanlon, CFO of Finance


By Timothy M. O'Brien  
Timothy M. O'Brien, Auditor



Contract Control Number: PWADM-201628868-00

Contractor Name: FCI CONSTRUCTORS INC

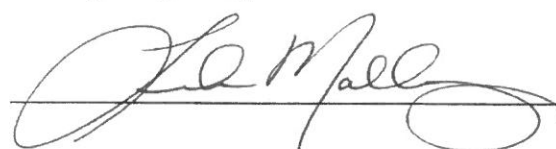


By: 

Name: BRYAN HEMEYER  
(please print)

Title: VICE PRESIDENT  
(please print)

**ATTEST: [if required]**

By: 

Name: Linda Mallory  
(please print)

Title: Office Manager  
(please print)





**EXHIBIT A**

Incorporated by Reference

**EXHIBIT B**

Incorporated by Reference

**EXHIBIT C**

June 24, 2016

Kent Grissom, Project Manager  
Denver Public Works I Facilities Capital Project Management  
201 West Colfax Ave., Dept. 506  
Denver, CO 80202

RE: Project Control No.: PWFAC2015-056

Dear Mr. Grissom:

FCI Constructors, Inc. is pleased to provide you with a proposal for Preconstruction Services for the Denver 911 Relocation and Renovation project. Included with this letter is "Attachment A" which outlines hours and rates to substantiate our Preconstruction Services fee.

**Preconstruction Services Fee: \$50,000** (billed monthly as costs are incurred)

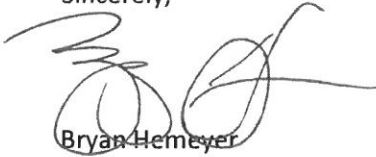
#### TERMS AND CONDITIONS

CM/GC (FCI Constructors, Inc.) will perform the following preconstruction services.

- A. Time and deliverable commitments:
  - 1. Perform (3) milestone estimates at SD, DD and CD.
  - 2. Attend weekly Owner/ Design meetings.
  
- B. Detailed scope of services:
  - 1. Site visits (with and without subcontractors)
  - 2. Investigation of existing floor access tiles for zinc whiskers
  - 3. Quantity survey at each stage of design (SD, DD, CD)
  - 4. Construction feasibility recommendations
  - 5. Value Engineering at each stage of design (SD, DD, CD)
  - 6. Upload design drawings to electronic plan room (SD, DD, CD)
  - 7. Labor availability review
  - 8. Subcontractor prequalification
  - 9. Subcontractor bid solicitation
  - 10. Scope matrix and bid form preparation
  - 11. Subcontractor bid analysis and presentation

12. MBE/ WBE analysis and presentation
13. LEED point cost analysis (what if scenarios)
14. Parking lot remediation analysis
15. Specialty building systems analysis (Cellular DAS, fiber, modular wiring, etc.)
16. MEP systems analysis (HVAC, lighting, plumbing, clean agent fire, etc.)

Sincerely,



Bryan Hemeyer

Vice President of Estimating and Marketing  
FCI Constructors, Inc.  
4015 Coriolis Way  
Frederick, CO 80504  
970-535-4725  
bhemeyer@fciol.com

# Attachment A

**Project Name: Denver 911 Relocation and Renovation**

***Precon Fee Breakdown***

| <i>SD / Concept</i>     | <i>Duration</i> |       | <i>Rate</i> |       | <i>Total</i>     |
|-------------------------|-----------------|-------|-------------|-------|------------------|
| PM                      | 16              | Hours | \$          | 89.54 | \$ 1,433         |
| General Super           | 8               | Hours | \$          | 84.82 | \$ 679           |
| Preconstruction Manager | 70              | Hours | \$          | 83.65 | \$ 5,855         |
| Estimator               | 30              | Hours | \$          | 63.62 | \$ 1,909         |
| <b><i>DD</i></b>        |                 |       |             |       |                  |
| PM                      | 40              | Hours | \$          | 89.54 | \$ 3,581         |
| General Super           | 50              | Hours | \$          | 84.82 | \$ 4,241         |
| Preconstruction Manager | 120             | Hours | \$          | 83.65 | \$ 10,037        |
| Estimator               | 80              | Hours | \$          | 63.62 | \$ 5,089         |
| <b><i>100% CD</i></b>   |                 |       |             |       |                  |
| PM                      | 25              | Hours | \$          | 89.54 | \$ 2,238         |
| General Super           | 32              | Hours | \$          | 84.82 | \$ 2,714         |
| Preconstruction Manager | 100             | Hours | \$          | 83.65 | \$ 8,365         |
| Estimator               | 60.65           | Hours | \$          | 63.62 | \$ 3,858         |
| <b>Total Precon:</b>    |                 |       |             |       | <b>\$ 50,000</b> |

**EXHIBIT D**

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/27/2016

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

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

PRODUCER: USI Colorado, LLC Construction, P.O. Box 7050, Englewood, CO 80155, 800 873-8500. CONTACT NAME: Client Manager, PHONE: 800 873-8500, FAX: 303 831-5295, E-MAIL ADDRESS: den.contractors@usi.biz. INSURER(S) AFFORDING COVERAGE: Arch Insurance Company (11150), Travelers Property Cas. Co. of (25674), ACE American Insurance Company (22667).

COVERAGES CERTIFICATE NUMBER: 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.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation and Employers' Liability, Pollution Liab, and Professional Liab.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Denver 911 Communication Center Relocation, 12025 & 45th Ave., Denver, CO 80239. As required by written contract, the City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers are included as Additional Insured as respects the Commercial General Liability and Business Auto.

CERTIFICATE HOLDER CANCELLATION

Certificate holder information: City and County of Denver, Denver Public Works Facilities, Capital Projects Management, 201 W Colfax Ave. Dept. 506, Denver, CO 80202. Cancellation notice: 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: Valeria Howard



**EXHIBIT E**  
**Equal Employment Opportunity Provisions**

**RULES AND REGULATIONS**  
**REGARDING**  
**EQUAL EMPLOYMENT OPPORTUNITY**

Promulgated and adopted by the Manager of Public Works pursuant to and by authority of Article III, Division 2, Chapter 28 of the Revised Municipal Code of the City and County of Denver, and for the purpose of insuring that contractors, subcontractors and suppliers soliciting and receiving compensation for contract work from or through the City and County of Denver provide equal opportunity in employment without regard to race, color, creed, sex, national origin, age, religion, marital status, political opinion or affiliation or mental or physical handicap and meet certain requirements for the hiring, training, promotion, and treatment during employment of members of ethnic groups subject to differential treatment, including persons of African descent (Black), Spanish-surnamed (Hispanic), Asian-American and American Indian Groups.

**RULE I - DEFINITIONS**

- A. "City" means the City and County of Denver.
- B. "Manager" shall mean the Manager of Public Works for the City and County of Denver.
- C. "Contract" means a contract entered into with the City and County of Denver, financed in whole or in part by local resources or funds of the City and County of Denver, for the construction of any public building or prosecution or completion of any public work.
- D. "Contractor" means the original party to a contract with the City and County of Denver, also referred to as the "general" or "prime" contractor.
- E. "Director" means the Director of the Division of Small Business Opportunity.
- F. "Subcontractor" means any person, company, association, partnership, corporation, or other entity, which assumes by subordinate agreement some or all of the obligations of the general or prime contractor.
- G. The phrase "Bidding Specifications" as used in Article III, Division 2 of Chapter 28 of the Revised Municipal Code shall include BID CONDITION, INVITATION TO BID, and NOTICE OF PROPOSAL.
- H. "Affirmative Action Program" means a set of specific and result-oriented procedures or steps to which a contractor commits himself to apply every good faith effort to employ members of ethnic minority groups, to include persons of African descent (Black), Spanish surnamed (Hispanic), Asian-American, American Indians, and persons with mental or physical handicap.
- I. "Division of Small Business Opportunity" means the City agency established pursuant to Article III, Division 1 of Chapter 28 of the Denver Revised Municipal Code.

## **RULE II - NOTICE OF HEARING**

When results of conciliation efforts are unsatisfactory to the Manager and he is informed in accordance with Article III, Division 2 of Chapter 28 of the Revised Municipal code that a contractor or subcontractor has apparently failed to meet affirmative action and equal employment opportunity requirements after a reasonable period of notice to correct deficiencies, the Manager will, prior to imposition of any sanctions, afford the general contractor a hearing in order to determine whether the contractor or his subcontractors have failed to comply with the affirmative action and equal employment opportunity requirements of Article III, Division 2 of Chapter 28 of the Revised Municipal Code or of the contract. Written notice of such hearing shall be delivered personally or sent by certified mail, return receipt requested, to the contractor and to any subcontractor involved, at least ten (10) days prior to the date scheduled for the hearing.

## **RULE III - HEARING**

- A. Contractors will appear at hearings and may be represented by counsel, and may present testimony orally and other evidence.
- B. Hearings shall be conducted by one or more hearing examiners designated as such by the Manager.
- C. The Director of the Division of Small Business Opportunity may participate in hearings as a witness.
- D. Hearings shall be held at the place specified in the notice of hearing.
- E. All oral testimony shall be given under oath or affirmation and a record of such proceedings shall be made.
- F. All hearings shall be open to the public.
- G. The hearing officer shall make recommendations to the Manager who shall make a final decision.

## **REGULATIONS**

### **REGULATION NO. 1 - ORDINANCE:**

The Rules and Regulations of the Manager shall be inserted in the bidding specifications for every contract for which bidding is required.

### **REGULATION NO. 2 - EXEMPTIONS:**

Each contract and subcontract, regardless of the dollar amount, shall be subject to affirmative action requirements unless specifically exempted in writing individually by the Manager. Exemptions apply only to "affirmative action" in equal employment opportunity, and are not to be construed as condonation in any manner of "discrimination" or "discriminatory practices" in employment because of race, color, creed, sex, age, national origin, religion, marital status, political opinion or mental or physical handicap.

### **REGULATION NO. 3 - DIRECTOR OF CONTRACT COMPLIANCE:**

The Director of the Division of Small Business Opportunity shall perform the duties assigned to such official by Article III, Division 2 Chapter 28 of the Revised Municipal Code and by the Manager. (1) The Director of the Division of Small Business Opportunity or designated representatives shall inform bidders and contractors of affirmative action procedures, programs, and goals in accordance with the Ordinance at pre-bid and pre-construction conference; (2) make regular on-site inspections; (3) supply contractors and subcontractors with report forms to be completed by them when requested, and furnished to the Director of the Division of Small Business Opportunity; and (4) review payroll records, employment records and practices of general contractors and their subcontractors and suppliers during the performance of any contract. The Director of the Division of Small Business Opportunity shall promptly report apparent affirmative action deficiencies to the Manager.

### **REGULATION NO. 4 - GOALS AND TIMETABLES:**

In general, goals and timetables should take into account anticipated vacancies and the availability of skills in the market place from which employees should be drawn. In addition, where discrimination in employment by a general contractor or any of his subcontractors is indicated, a corrective action program will take into account the need by the general contractor and his subcontractors to correct past discriminatory practices and reach goals of minority manpower utilization on a timely basis through such recruiting and advertising efforts as are necessary and appropriate.

**REGULATION NO. 5 - AWARD OF CONTRACTS:**

It shall be the responsibility of the Director of the Division of Small Business Opportunity to determine the affirmative action capability of bidders, contractors and subcontractors and to recommend to the Manager the award of contracts to those bidders, contractors and subcontractors and suppliers who demonstrate the ability and willingness to comply with the terms of their contract.

**REGULATION NO. 6 - PUBLICATION AND DUPLICATION:**

Copies of these Rules and Regulations as amended by the Manager from time to time, shall as soon as practicable and after Notice being published will be made a part of all City Contracts.

**REGULATION NO. 7 - NOTICE TO PROCEED:**

Prior to issuance of the Notice to Proceed, a sign-off will be required of the Director of the Division of Small Business Opportunity or his designee.

**REGULATION NO. 8 - CONTRACTS WITH SUBCONTRACTORS:**

To the greatest extent possible, the contractor shall make a good faith effort to contract with minority contractors, subcontractors and suppliers for services and supplies by taking affirmative actions, which include but are not limited to the following:

1. Advertise invitations for subcontractor bids in minority community news media.
2. Contact minority contractor organizations for referral of prospective subcontractors.
3. Purchase materials and supplies from minority material suppliers.

**REGULATION NO. 9 - AGENCY REFERRALS:**

It shall be no excuse that the union with which the contractor or subcontractor has an agreement providing for referral, exclusive or otherwise, failed to refer minority employees.

**REGULATION NO. 10 - CLAUSES:**

The Manager shall include the appropriate clauses in every contract and the contractor shall cause to be inserted in every subcontract the appropriate clauses:

1. APPENDIX A: City and County of Denver Equal Opportunity Clause - ALL CONTRACTS funded only with City and County of Denver monies.
2. APPENDIX B: Equal Opportunity Clause (11246) - ALL FEDERAL ASSISTED.
3. APPENDIX C: Section 3 - Assurance of Compliance - HUD ASSISTED PROJECTS.
4. APPENDIX D: Section 3 - Clause - HUD ASSISTED PROJECTS.

All amendments to the appendices shall be included by reference.

**REGULATION NO. 11 - SHOW CAUSE NOTICES:**

When the Manager has reasonable cause to believe that a contractor has violated Article III, Division 2 of Chapter 28 of the Denver Revised Municipal Code, he may issue a notice requiring the contractor to show cause, within fifteen (15) days why enforcement procedures, or other appropriate action to insure compliance, should not be instituted.

**REGULATION NO. 12 - BID CONDITIONS - AFFIRMATIVE ACTION REQUIREMENTS - EQUAL EMPLOYMENT OPPORTUNITY:**

1. APPENDIX E: The Bid Conditions - Affirmative Action Requirements - Equal Employment Opportunity as amended and published by the U.S. Department of Labor Employment Standards Administration, Office of Federal Contract Compliance, shall be inserted verbatim for bidding specification for every non-exempt contract involving the use of Federal funds.

2. APPENDIX F: The Bid Conditions - Affirmative Action Requirements - Equal Employment Opportunity as published by the Department of Public Works, City and County of Denver, shall be inserted verbatim as bidding specifications for every non-exempt contract using City funds.

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF PUBLIC WORKS**

**APPENDIX A**

**CITY AND COUNTY OF DENVER EQUAL OPPORTUNITY CLAUSE -  
ALL CONTRACTS**

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided, advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. Each Contractor will comply with all provisions of Article III, Division 2 of Chapter 28 of the Revised Municipal Code, and the rules, regulations, and relevant orders of the Manager and the Director.
5. The Contractor will furnish all information and reports required by Article III, Division 2 of Chapter 28 of the Revised Municipal Code, and by rules, regulations and orders of the Manager and Director or pursuant thereto, and will permit access to his books, records, and accounts by the Manager, Director, or their designee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further City contracts in accordance with procedures authorized in Article III, Division 2, Chapter 28 of the Revised Municipal Code, or by rules, regulations, or order of the Manager.
7. The Contractor will include Regulation 12, Paragraph 2 and the provisions of paragraphs (1) through (6) in every subcontract of purchase order unless exempted by rules, regulations, or orders of the Manager issued pursuant to Article III, Division 2, Chapter 28 of the Revised Municipal Code, so that such provisions will be binding on each subcontractor or supplier. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The applicant further agrees to be bound by the above equal opportunity clauses with respect to its own employment practices when it participates in City contracts. The Contractor agrees to assist and cooperate actively with the Manager and the Director in obtaining compliance of subcontractors and suppliers with the equal opportunity clause and the rules, regulations and relevant orders of the Manager, and will furnish the Manager and the Director such information as they may require for the supervision of compliance, and will otherwise assist the Manager and Director in the discharge of the City's primary responsibility for securing compliance. The Contractor further agrees to refrain from entering into any contract or contract modification subject to Article III, Division 2 of Chapter 28

of the Revised Municipal Code with a contractor debarred from, or who has not demonstrated eligibility for, City contracts.

The Contractor will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Manager and Director. In addition, the Contractor agrees that failure or refusal to comply with these undertakings the Manager may take any or all of the following actions:

- A. Cancellation, termination, or suspension in whole or in part of this contract.
- B. Refrain from extending any further assistance to the applicant under the program with respect to which the failure occurred until satisfactory assurance of future compliance has been received from such applicant.
- C. Refer the case to the City Attorney for appropriate legal proceedings.

**SUBCONTRACTS:** Each prime Contractor or Subcontractor shall include the equal opportunity clause in each of its subcontracts.

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF PUBLIC WORKS**

**APPENDIX F**

**AFFIRMATIVE ACTION REQUIREMENTS**

**EQUAL EMPLOYMENT OPPORTUNITY**

For All Non-Exempt Construction Contracts to Be Awarded by the  
City and County of Denver, Department of Public Works.

**NOTICE**

EACH BIDDER, CONTRACTOR OR SUBCONTRACTOR (HEREINAFTER THE CONTRACTOR) MUST FULLY COMPLY WITH THE REQUIREMENTS OF THESE BID CONDITIONS AS TO EACH CONSTRUCTION TRADE IT INTENDS TO USE ON THIS CONSTRUCTION CONTRACT, AND ALL OTHER CONSTRUCTION WORK (BOTH CITY AND NON-CITY) IN THE DENVER AREA DURING THE PERFORMANCE OF THIS CONTRACT OR SUBCONTRACT. THE CONTRACTOR COMMITS ITSELF TO THE GOALS FOR MINORITY MANPOWER UTILIZATION, AS APPLICABLE, AND ALL OTHER REQUIREMENTS, TERMS AND CONDITION OF THESE BID CONDITIONS BY SUBMITTING A PROPERLY SIGNED BID.

THE CONTRACTOR SHALL APPOINT A COMPANY EXECUTIVE TO ASSUME THE RESPONSIBILITY FOR THE IMPLEMENTATION OF THE REQUIREMENTS, TERMS AND CONDITIONS OF THESE BID CONDITIONS.

/s/ \_\_\_\_\_

Manager of Public Works  
City and County of Denver

**A. REQUIREMENTS - AN AFFIRMATIVE ACTION PLAN:**

Contractors shall be subject to the provisions and requirements of these bid conditions including the goals and timetables for minority\* and female utilization, and specific affirmative action steps set forth by the Division of Small Business Opportunity (DSBO). The contractor's commitment to the goals for minority, and female utilization as required constitutes a commitment that it will make every good faith effort to meet such goals.

**1. GOALS AND TIMETABLES:**

The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade are as follows:

| GOALS FOR<br>MINORITY PARTICIPATION<br>FOR EACH TRADE | GOALS FOR<br>FEMALE PARTICIPATION<br>FOR EACH TRADE |
|-------------------------------------------------------|-----------------------------------------------------|
| From January 1, 1982<br>to<br>Until Further Notice    | From January 1, 1982<br>to<br>Until Further Notice  |
| <b>21.7% - 23.5%</b>                                  | <b>6.9%</b>                                         |

The goals for minority and female utilization above are expressed in terms of hours of training and employment as a proportion of the total number of hours to be worked by the contractor's aggregate workforce, which includes all supervisory personnel, in each trade, on all projects for the City and County of Denver during the performance of its contract (i.e., The period beginning with the first day of work on the City and County of Denver funded construction contract and ending with the last day of work).

The hours of minority and female employment and training must be substantially uniform throughout the length of the contract in each trade and minorities and females must be employed evenly on each of a contractor's projects. Therefore, the transfer of minority or female employees from contractor to contractor or from project to project for the purpose of meeting the contractor's goals shall be a violation of these Bid Conditions.

If the Contractor counts the nonworking hours of apprentices they must be employed by the Contractor during the training period; the Contractor must have made a commitment to employ apprentices at the completion of their training subject to the availability of employment opportunities; and the apprentices must be trained pursuant to training programs approved by the Bureau of Apprenticeship and Training.

\* "Minority" is defined as including, Blacks, Spanish Surname Americans, Asian Americans, and American Indians, and includes both men and minority women.

**2. SPECIFIC AFFIRMATIVE ACTION STEPS:**

No contractor shall be found to be in noncompliance solely on account of its failure to meet its goals, but will be given an opportunity to demonstrate that the contractor has instituted all the specific affirmative action steps specified and has made every good faith effort to make these steps work toward the attainment of its goals within the timetables, all to the purpose of expanding minority and female utilization in its aggregate workforce. A contractor, who fails to comply with its obligation under the Equal Opportunity Clause of its contract and fails to achieve its commitments to the goals for minority and female utilization has the burden of proving that it has engaged in an Affirmative Action Program directed at increasing minority and female utilization and that such efforts were at least as extensive and as specific as the following:

- a. The Contractor should have notified minority and female organizations when employment opportunities were available and should have maintained records of the organization's response.



- b. The Contractor should have maintained a file of the names and addresses of each minority and female referred to it by any individual or organization and what action was taken with respect to each such referred individual, and if the individual was not employed by the Contractor, the reasons. If such individual was sent to the union hiring hall for referral and not referred back by the union or if referred, not employed by the Contractor, the file should have documented this and their reasons.
- c. The Contractor should have promptly notified the Department of Public Works, and the Division of Small Business Opportunity when the union or unions with which the Contractor has collective bargaining agreements did not refer to the contractor a minority or female sent by the contractor, or when the Contractor has other information that the union referral process has impeded efforts to meet its goals.
- d. The Contractor should have disseminated its EEO policy within its organization by including it in any employee handbook or policy manual; by publicizing it in company newspapers and annual reports and by advertising such policy at reasonable intervals in union publications. The EEO policy should be further disseminated by conducting staff meetings to explain and discuss the policy; by posting of the policy; and by review of the policy with minority and female employees.
- e. The Contractor should have disseminated its EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority and female news media; and by notifying and discussing it with all subcontractors.
- f. The Contractor should have made both specific and reasonably recurrent written and oral recruitment efforts. Such efforts should have been directed at minority and female organizations, schools with substantial minority and female enrollment, and minority and female recruitment and training organizations within the Contractor's recruitment area.
- g. The Contractor should have evidence available for inspection that all tests and other selection techniques used to select from among candidates for hire, transfer, promotion, training, or retention are being used in a manner that does not violate the OFCCP Testing Guidelines in 41 CFR Part 60-3.
- h. The Contractor should have made sure that seniority practices and job classifications do not have a discriminatory effect.
- i. The Contractor should have made certain that all facilities are not segregated by race.
- j. The Contractor should have continually monitored all personnel activities to ensure that its EEO policy was being carried out including the evaluation of minority and female employees for promotional opportunities on a quarterly basis and the encouragement of such employees to seek those opportunities.
- k. The Contractor should have solicited bids for subcontracts from available minority and female subcontractors engaged in the trades covered by these Bid Conditions, including circulation of minority and female contractor associations.

**NOTE:**

The Director and the Division of Small Business Opportunity will provide technical assistance on questions pertaining to minority and female recruitment sources, minority and female community organizations, and minority and female news media upon receipt of a request for assistance from a contractor.

**3. NON - DISCRIMINATION:**

In no event may a contractor utilize the goals and affirmative action steps required in such a manner as to cause or result in discrimination against any person on account of race, color, religion, sex, marital status, national origin, age, mental or physical handicap, political opinion or affiliation.

**4. COMPLIANCE AND ENFORCEMENT:**

In all cases, the compliance of a contractor will be determined in accordance with its obligations under the terms of these Bid Conditions. All contractors performing or to perform work on projects subject to these Bid Conditions hereby agree to inform their subcontractors in writing of their respective obligations under the terms and requirements of these Bid Conditions, including the provisions relating to goals of minority and female employment and training.

**B. CONTRACTORS SUBJECT TO THESE BID CONDITIONS:**

In regard to these Bid Conditions, if the Contractor meets the goals set forth therein or can demonstrate that it has made every good faith effort to meet these goals, the Contractor shall be presumed to be in compliance with Article III, Division 2 of Chapter 28 of the Revised Municipal Code, the implementing regulations and its obligations under these Bid Conditions. In the event, no formal sanctions or proceedings leading toward sanctions shall be instituted unless the contracting or administering agency otherwise determines that the contractor is violating the Equal Opportunity Clause.

1. Where the Office of Contract Compliance finds that a contractor failed to comply with the requirements of Article III, Division 2 of Chapter 28 of the Revised Municipal Code or the implementing regulations and the obligations under these Bid Conditions, and so informs the Manager, the Manager shall take such action and impose such sanctions, which include suspension, termination, cancellation, and debarment, as may be appropriate under the Ordinance and its regulations. When the Manager proceeds with such formal action it has the burden of proving that the Contractor has not met the goals contained in these Bid Conditions. The Contractor's failure to meet its goals shall shift to it the requirement to come forward with evidence to show that it has met the good faith requirements of these Bid Conditions.
2. The pendency of such proceedings shall be taken into consideration by the Department of Public Works in determining whether such contractor can comply with the requirements of Article III, Division 2 of Chapter 28 of the Revised Municipal Code, and is therefore a "responsible prospective contractor".
3. The Division of Small Business Opportunity shall review the Contractor's employment practices during the performance of the contract. If the Division of Small Business Opportunity determines that the Contractor's Affirmative Action Plan is no longer an acceptable program, the Director shall notify the Manager.

**C. OBLIGATIONS APPLICABLE TO CONTRACTORS:**

It shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority or female employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the National Labor Relations Act, as amended, Title VI of the Civil Rights Act of 1964, as amended, and Article III, Division 2 of Chapter 28 of the Revised Municipal Code. It is the policy of the Department of Public Works that contractors have a responsibility to provide equal employment opportunity, if they wish to participate in City and County of Denver contracts. To the extent they have delegated the responsibility for some of their employment practices to a labor organization and, as a result, are prevented from meeting their obligations pursuant to Article III, Division 2, Chapter 28 of the Revised Municipal Code, such Contractors cannot be considered to be in compliance with Article III, Division 2, Chapter 28 of the Revised Municipal Code, or its implementing rules and regulations.

**D. GENERAL REQUIREMENTS:**

Contractors are responsible for informing their subcontractors in writing regardless of tier, as to their respective obligations. Whenever a Contractor subcontracts a portion of work in any trade covered by these Bid Conditions, **it shall include these Bid Conditions in such subcontracts and each subcontractor shall be bound by these Bid Conditions to the full extent as if it were the prime contractor.** The Contractor shall not, however, be held

accountable for the failure of its subcontractors to fulfill their obligations under these Bid Conditions. However, the prime contractor shall give notice to the Director of any refusal or failure of any subcontractor to fulfill the obligations under these Bid Conditions. A subcontractor's failure to comply will be treated in the same manner as such failure by a prime contractor.

1. Contractors hereby agree to refrain from entering into any contract or contract modification subject to Article III, Division 2, Chapter 28 of the Revised Municipal Code with a contractor debarred from, or who is determined not to be a "responsive" bidder for the City and County of Denver contracts pursuant to the Ordinance.
2. The Contractor shall carry out such sanctions and penalties for violation of these Bid Conditions and the Equal Opportunity Clause including suspension, termination and cancellation of existing subcontracts and debarment from future contracts as may be ordered by the Manager pursuant to Article III, Division 2, Chapter 28 of the Revised Municipal Code and its implementing regulations.
3. Nothing herein is intended to relieve any contractor during the term of its contract from compliance with Article III, Division 2, Chapter 28 of the Revised Municipal Code, and the Equal Opportunity Clause of its contract with respect to matters not covered in these Bid Conditions.
4. Contractors must keep such records and file such reports relating to the provisions of these Bid Conditions as shall be required by the Office of Contract Compliance.
5. Requests for exemptions from these Bid Conditions must be made in writing, with justification, to the Manager of Public Works, 201 W. Colfax, Dept. 608, Denver, Colorado 80202, and shall be forwarded through and with the endorsement of the Director



**DENVER**  
THE MILE HIGH CITY

EXHIBIT F

**Office of Human Resources**  
Denver's Human Resource Agency

201 W. Colfax, Department 412  
Denver, CO 80202  
p: 720.913.5751  
f: 720.913.5720  
[www.denvergov.org/csa](http://www.denvergov.org/csa)

TO: All Users of the City of Denver Prevailing Wage Schedules  
FROM: Alena Duran, Associate Human Resources Professional  
DATE: Thursday, January 28, 2016  
SUBJECT: Latest Change to Prevailing Wage Schedules

Please be advised, prevailing wage rates for some building, heavy, and highway construction trades have not been updated by the United States Department of Labor (DOL) since March 1, 2002. The Career Service Board, in their meeting held on April 21, 2011, approved the use of the attached supplemental wage rates until prevailing wage rates for these classifications of work are again published by the United States Department of Labor.

The attached Prevailing Wage Schedule is effective as of **Friday January 15, 2016** 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. CO160030  
Superseded General Decision No. CO20150030  
Modification No.1  
Publication Date: 01/15/2016  
(4 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.

For questions call (720) 913-5018

Attachments as listed above.

General Decision Number: CO160030 01/15/2016 CO30

Superseded General Decision Number: CO20150030

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: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---------------------|------------------|
| 0                   | 01/08/2016       |
| 1                   | 01/15/2016       |

ASBE0028-002 10/01/2012

|                                                                                                      | Rates    | Fringes |
|------------------------------------------------------------------------------------------------------|----------|---------|
| ASBESTOS WORKER/HEAT & FROST INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation)..... | \$ 28.98 | 13.03   |

CARP0055-002 05/01/2015

|                                       | Rates    | Fringes |
|---------------------------------------|----------|---------|
| CARPENTER (Drywall Hanging Only)..... | \$ 25.00 | 6.19    |

CARP1607-001 06/01/2015

|                 | Rates    | Fringes |
|-----------------|----------|---------|
| MILLWRIGHT..... | \$ 31.00 | 11.88   |

ELEC0068-012 06/01/2015

| Rates | Fringes |
|-------|---------|
|-------|---------|

ELECTRICIAN (Includes Low Voltage Wiring).....\$ 33.15 13.46

-----  
 \* ELEV0025-001 01/01/2016

|                        | Rates    | Fringes    |
|------------------------|----------|------------|
| ELEVATOR MECHANIC..... | \$ 41.47 | 30.285+a+b |

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 10/23/2013

|                                     | Rates    | Fringes |
|-------------------------------------|----------|---------|
| POWER EQUIPMENT OPERATOR<br>(Crane) |          |         |
| 141 tons and over.....              | \$ 25.97 | 9.15    |
| 50 tons and under.....              | \$ 24.88 | 9.15    |
| 51 to 90 tons.....                  | \$ 25.04 | 9.15    |
| 91 to 140 tons.....                 | \$ 25.19 | 9.15    |

-----  
 IRON0024-009 06/01/2015

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| IRONWORKER, ORNAMENTAL..... | \$ 25.05 | 11.14   |

-----  
 IRON0024-010 06/01/2015

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| IRONWORKER, STRUCTURAL..... | \$ 25.05 | 11.14   |

-----  
 PAIN0079-006 03/01/2015

|                                                                           | Rates    | Fringes |
|---------------------------------------------------------------------------|----------|---------|
| PAINTER (Brush, Roller and Spray; Excludes Drywall Finishing/Taping)..... | \$ 19.45 | 6.91    |

-----  
 PAIN0079-007 03/01/2015

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| DRYWALL FINISHER/TAPER..... | \$ 20.15 | 6.91    |

-----  
 PAIN0419-001 07/01/2015

|                                                                                                     | Rates    | Fringes |
|-----------------------------------------------------------------------------------------------------|----------|---------|
| SOFT FLOOR LAYER (Vinyl and Carpet).....                                                            | \$ 16.70 | 10.09   |
| -----                                                                                               |          |         |
| PAIN0930-002 07/01/2015                                                                             |          |         |
|                                                                                                     | Rates    | Fringes |
| GLAZIER.....                                                                                        | \$ 30.52 | 8.12    |
| -----                                                                                               |          |         |
| PLUM0003-009 06/01/2015                                                                             |          |         |
|                                                                                                     | Rates    | Fringes |
| PLUMBER (Excludes HVAC Duct, Pipe and Unit Installation).....                                       | \$ 36.93 | 13.10   |
| -----                                                                                               |          |         |
| PLUM0208-008 06/01/2015                                                                             |          |         |
|                                                                                                     | Rates    | Fringes |
| PIPEFITTER (Includes HVAC Pipe and Unit Installation; Excludes HVAC Duct Installation).....         | \$ 35.35 | 13.39   |
| -----                                                                                               |          |         |
| SFCO0669-002 04/01/2015                                                                             |          |         |
|                                                                                                     | Rates    | Fringes |
| SPRINKLER FITTER (Fire Sprinklers).....                                                             | \$ 34.43 | 19.09   |
| -----                                                                                               |          |         |
| SHEE0009-004 07/01/2015                                                                             |          |         |
|                                                                                                     | Rates    | Fringes |
| SHEET METAL WORKER (Includes HVAC Duct Installation; Excludes HVAC Pipe and Unit Installation)..... | \$ 32.85 | 14.63   |
| -----                                                                                               |          |         |
| 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).....                                                       | \$ 17.68 | 0.00    |
| CARPENTER, Excludes Acoustical Ceiling                                                              |          |         |

|                                                                       |          |      |
|-----------------------------------------------------------------------|----------|------|
| Installation, Drywall<br>Hanging, and Metal Stud<br>Installation..... | \$ 21.09 | 6.31 |
| CEMENT MASON/CONCRETE FINISHER...                                     | \$ 20.09 | 7.03 |
| LABORER: Common or General.....                                       | \$ 14.49 | 5.22 |
| LABORER: Mason Tender - Brick...                                      | \$ 15.99 | 0.00 |
| LABORER: Mason Tender -<br>Cement/Concrete.....                       | \$ 16.00 | 0.00 |
| LABORER: Pipelayer.....                                               | \$ 16.96 | 3.68 |
| OPERATOR:<br>Backhoe/Excavator/Trackhoe.....                          | \$ 20.78 | 5.78 |
| OPERATOR: Bobcat/Skid<br>Steer/Skid Loader.....                       | \$ 19.10 | 3.89 |
| OPERATOR: Grader/Blade.....                                           | \$ 21.50 | 0.00 |
| ROOFER.....                                                           | \$ 16.56 | 0.00 |
| TRUCK DRIVER: Dump Truck.....                                         | \$ 17.34 | 0.00 |
| WATERPROOFER.....                                                     | \$ 12.71 | 0.00 |

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



**Office of Human Resources**

**Supplemental rates**  
**(Specific to the Denver projects)**  
**Supp #101, Date: 11-19-2015**

| <b><u>Classification</u></b>                            |                                  | <b><u>Base</u></b> | <b><u>Fringe</u></b> |
|---------------------------------------------------------|----------------------------------|--------------------|----------------------|
| Boilermakers                                            |                                  | \$30.97            | \$21.45              |
| Iron Worker, Reinforcing                                |                                  | \$18.49            | \$3.87               |
| Paper Hanger                                            |                                  | \$20.15            | \$6.91               |
| Power Equipment Operators<br>(Concrete Mixers):         |                                  |                    |                      |
|                                                         | Less than 1 yd                   | \$23.67            | \$10.67              |
|                                                         | 1 yd and over                    | \$23.82            | \$10.68              |
|                                                         | Drillers                         | \$23.97            | \$10.70              |
|                                                         | Loaders over 6 cu yd             | \$23.82            | \$10.68              |
|                                                         | Oilers                           | \$22.97            | \$10.70              |
| Plasters                                                |                                  | \$24.60            | \$12.11              |
| Plaster Tenders                                         |                                  | \$10.79            | -                    |
| Laborers: Concrete Saw                                  |                                  | \$13.89            | -                    |
| Tile Setter-Tile Finisher-Floor<br>Grinder-Base Grinder |                                  | \$20.24            | \$8.14               |
| Power Equipment Operators:                              |                                  |                    |                      |
|                                                         | Loader up to and incl 6 cu<br>yd | \$23.67            | \$10.67              |
|                                                         | Motor Grader                     | \$23.97            | \$10.70              |
|                                                         | Roller                           | \$23.67            | \$10.67              |
| Truck Drivers                                           | Flatbed                          | \$19.14            | \$10.07              |
|                                                         | Semi                             | \$19.48            | \$10.11              |
|                                                         |                                  |                    |                      |

- Caulkers—Receive rate prescribed for craft performing operation to which caulking is incidental .i.e. glazier, painter, brick layer, cement mason.
- Use the “Carpenters, Excludes Acoustical Ceiling Installation, Drywall Hanging, and Metal Stud Installation” rates published by the Federal Davis-Bacon rates for batt insulation, pre-stress concrete and tilt up concrete walls.
- Use the “Laborer—Common”, for General Housekeeping, Demolition, Final Cleanup and Indoor Fence Installer.
- Cleanup incidental to the craft performing work can’t be classified as Laborer-Common.
- See Denver City Auditor’s Office Prevailing Wage Clarification of Determinations 2015 Prevailing Wage Section Clarification of Determinations for list of complete classification uses at [Denvergov.org/Auditor](http://Denvergov.org/Auditor).



**DENVER**  
THE MILE HIGH CITY

TO: All Users of the City of Denver Prevailing Wage Schedules  
FROM: Alena Duran, OHR Compensation and Classification  
DATE: February 18, 2016  
SUBJECT: Latest Update to Prevailing Wage Schedules

Please find an attachment to this memorandum all of the current Office of Human Resources Prevailing Wage Schedules issued in accordance with the City and County of Denver's Revised Municipal Code, Section 20-76(c). This schedule does not include the Davis-Bacon rates. The Davis-Bacon wage rates will continue to be published separately as they are announced.

Modification No. 123  
Publication Date: 2-18-16  
(14 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. The employer and the individual apprentice must be registered in a program, which has received prior approval, by the U.S. Department of Labor. 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.

Questions call (720) 913-5726.

Attachments as listed above.

## APPLIANCE MECHANIC

Last Revision: 02-19-2009  
Effective: 02-19-2009

| Classification:           | <u>Base Wage</u> | <u>Fringes</u> |
|---------------------------|------------------|----------------|
| <b>Appliance Mechanic</b> | \$22.34/hour     | \$5.82/hour    |

Plus 10% shift differential for regularly scheduled hours worked between 6:00 p.m. and 6:00 a.m.

The Appliance Mechanic installs, services and repairs stoves, refrigerators, dishwashing machines, and other electrical household or commercial appliances, using hand tools, test equipment and following wiring diagrams and manufacturer's specifications. Responsibilities include: connects appliance to power source and test meters, such as wattmeter, ammeter, or voltmeter, observes readings on meters and graphic recorders, examines appliance during operating cycle to detect excess vibration, overheating, fluid leaks and loose parts, and disassembles appliances and examines mechanical and electrical parts. Additional duties include: traces electrical circuits, following diagram and locates shorts and grounds, using ohmmeter, calibrates timers, thermostats and adjusts contact points, and cleans and washes parts, using wire brush, buffer, and solvent to remove carbon, grease and dust. Replaces worn or defective parts, such as switches, pumps, bearings, transmissions, belts, gears, blowers and defective wiring, repairs and adjusts appliance motors, reassembles appliance, adjusts pulleys and lubricates moving parts, using hand tools and lubricating equipment.

Note: This position does not perform installations done at new construction.

## BAGGAGE HANDLING SYSTEM MAINTENANCE

Last Revision: 10-9-2014  
Effective: 10-22-2015

| Classification:                       | <u>Base Wage</u> | <u>Fringes</u> |
|---------------------------------------|------------------|----------------|
| <b>Entry-Support Mechanic</b>         | \$15.26/hour     | \$6.03/hour    |
| <b>Machinery Maintenance Mechanic</b> | \$19.33/hour     | \$6.50/hour    |
| <b>Controls System Technician</b>     | \$24.90/hour     | \$7.14/hour    |

Plus 10% shift differential for regularly scheduled hours worked between 6:00 p.m. and 6:00 a.m.

### **Entry Support Mechanic**

Under direct supervision, assists the Machinery Maintenance Mechanic in maintaining the operational status of the baggage handling system. Duties include but are not limited to; assisting with adjustments with belt tracking, belt tension, and gearbox.

### **Machinery Maintenance Mechanic**

Performs routine and basic adjustments of baggage handling system equipment including but not limited to, belt tracking, belt tension, and gearbox and bearing lubrication. Performs daily and periodic shift inspections, cleaning, and diagnostics of mechanical system components based on an established preventive maintenance program. Dismantles, repairs, and reassembles equipment or machines for stock replacement or to restore baggage handling system equipment to operational status. Preventive maintenance and overhauling machines includes, but is not limited to, motors, clutches, brakes, transporting telecars, bearings, drive belts, drive shafts, pulleys, gearboxes (speed reducers), and conveyor belting. Maintains daily turnover reports and hourly labor time sheets for warranty reimbursement and statistical tracking of repairs.

### **Controls System Technician**

Performs a variety of functions such as installation, maintenance, and repair of devices which control and are controlled by the baggage handling system and related equipment. Such devices include, but are not

limited to, personal computers, programmable logic controllers and peripherals, motor control panels, photoelectric sensors, sync-pulse tachometers, laser and RF readers, linear induction motors and servo-drives. Troubleshoots and repairs all control system and electrical failures by applying comprehensive technical knowledge to solve problems by interpreting manufacturer manuals or similar documents. Work requires familiarity with the interrelationships of electro-mechanical devices.

Removes and replaces plug-in type boards and components. Aligns, replaces, and cleans photocells. Makes minor repairs of connectors, wiring and fuses on-site, and cleans and performs diagnostic routines of electrical and control system components. Performs scheduled routine maintenance on all control system components and reporting devices (including personal computers), based on recommended manufacturer practices. Uses a personal computer to diagnose and correct PLC and operating system software problems. Diagnoses, repairs and aligns laser array (baggage tag reader) and RF reader hardware and software.

Note: Incumbents must possess an Electrician's license when work warrants.

### **BUILDING ENGINEER**

Last Revision: 09-05-2013  
Effective: 07-17-2014

| Classification:          | <b><u>Base Wage</u></b> | <b><u>Fringes</u></b> |
|--------------------------|-------------------------|-----------------------|
| <b>Building Engineer</b> | \$29.14/hour            | \$7.17/hour           |

This classification of work is responsible for operating, monitoring, maintaining/repairing the facilities mechanical systems to ensure peak performance of the systems. This includes performing P.M. and repair work of the building mechanical systems, inspecting, adjusting, and monitoring the building automation and life safety systems, contacting vendors and place order replacement parts, responding to customer service requests and performing maintenance/repairs in tenant or public spaces, performing routine P.M. i.e. light plumbing and electrical repairs, ballast lamp and tube replacement, operating mechanical systems both on site and via a remote laptop computer, maintaining inventory of spare parts and tools, painting and cleaning mechanical equipment and machine rooms, etc.

### **FUEL HANDLER SERIES**

Last Revision: 10-9-2014  
Effective: 10-22-2015

| Classification:                               | <b><u>Base Wage</u></b> | <b><u>Fringes</u></b> |
|-----------------------------------------------|-------------------------|-----------------------|
| <b>Fuel Distribution System Operator</b>      | \$18.97/hour            | \$6.46/hour           |
| <b>Lead Fuel Distribution System Operator</b> | \$19.83/hour            | \$6.56 /hour          |
| <b>Fuel Distribution System Mechanic</b>      | \$23.46/hour            | \$6.98/hour           |
| <b>Lead Fuel Distribution System Mechanic</b> | \$24.53/hour            | \$7.10/hour           |

Plus 10% shift differential for hours worked between 6:00 p.m. and 6:00 a.m.

#### **Fuel Distribution System Operator:**

Receives, stores, transfers, and issues fuel. Performs various testing procedures and documentation on fuel samples. Gauges tanks for water, temperature and fuel levels. Performs temperature and gravity testing for correct weight of fuel. Checks pumping systems for correct operating pressure or unusual noises. Inspects fuel receiving, storage, and distribution facilities to detect leakage, corrosion, faulty fittings,

and malfunction of mechanical units, meters, and gauges such as distribution lines, float gauges, piping valves, pumps, and roof sumps. Operates a 24-hour control center; operates various computer equipments to determine potential equipment failure, leak and cathodic protection systems, pump failure, and emergency fuel shutoff systems. Monitors quality of fuel and drains excess condensation from fuel sumps and underground fuel pits. Inspects fuel tank farm for such items as leaks, low pressure, and unauthorized personnel. Performs general housekeeping and grounds maintenance for terminal, pipeline and dock areas, including fuel pits and valve vault cleaning and pump out activities. May connect lines, grounding wires, and loading and off loading arms of hoses to pipelines. May assist Fuel Distribution System Mechanics by preparing work areas. Maintains record of inspections, observations and test results.

**Lead Fuel Distribution System Operator:**

Performs lead duties such as making and approving work assignments and conducting on-the-job training as well as performing the various tasks performed by the Operator classification.

**Fuel Distribution System Mechanic:**

Maintains and repairs fuel storage and distribution systems, equipment and filtration systems, and differential pressure valves. Corrects leakage, corrosion, faulty fittings, and malfunction of mechanical units, meters, and gauges such as distribution lines, float gauges, piping valves, pumps, and roof sumps. Inspects electrical wiring, switches, and controls for safe-operating condition, grounding, and adjustment; may make minor repairs. Lubricates and repacks valves. Lubricates pumps, replaces gaskets, and corrects pumping equipment misalignment. May clean strainers and filters, service water separators, and check meters for correct delivery and calibration. Overhauls system components such as pressure regulating valves and excess valves. Disassembles, adjusts, aligns, and calibrates gauges and meters or replaces them. Removes and installs equipment such as filters and piping to modify system or repair and replace system component. Cleans fuel tanks and distribution lines. Removes corrosion and repaints surfaces. Overhauls vacuum and pressure vents, floating roof seals, hangers, and roof sumps. Some positions maintain fuel-servicing equipment such as hydrant and tanker trucks. Maintains record of inspections and repairs and other related paperwork as required.

**Lead Fuel Distribution System Mechanic:**

Performs lead duties such as making and approving work assignments and conducting on-the-job training as well as performing the various tasks performed by the Mechanic classification.

These classifications are recommended to be inclusive and to supersede any previously adopted classifications.

## CUSTODIANS

Last Revision: 12-18-2014  
Effective: 12-3-2015

| <u>Classification</u> | <u>Base Wage</u> | <u>Fringes</u>                                   |
|-----------------------|------------------|--------------------------------------------------|
| Custodian I           | \$14.03/hour     | \$5.17 SINGLE<br>\$7.23 2-PARTY<br>\$9.19 FAMILY |
| Custodian II          | \$14.38/hour     | \$5.23 SINGLE<br>\$7.29 2-PARTY<br>\$9.25 FAMILY |

### Benefits and Overtime

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Parking            | With valid receipt from approved parking lot, employees are reimbursed the actual monthly cost of parking.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| RTD Bus Pass       | Employer will provide employees with the Bus Pass or pay (\$0.23) per hour for travel differential.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Shift Differential | 2nd shift (2:30 p.m.-10:30 p.m.): \$.50/hr<br>3rd shift (10:31 p.m.-6:30 a.m.): \$1.00/hr.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Overtime           | Time worked in excess of seven and one-half (7 ½) hours in one (1) day or in excess of thirty-seven and one-half (37 ½) hours in one week shall constitute overtime and shall be paid for at the rate of time and one-half (1 ½) at the employee's basic straight time hourly rate of pay.                                                                                                                                                                                                                                                                                                                                        |
| Lunch              | Any employee working seven and a half (7.5) hours in a day is entitled to a thirty (30) minute paid lunch.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Note               | The Career Service Board in their public hearing on March 15, 2007 approved to amend prevailing wages paid to the Custodian as follows: "All contractors shall provide fringe benefits or cash equivalent at not less than the single rate amount. Contractors who offer health insurance shall provide an employer contribution to such insurance of not less than the 2-party or family rate for any employee who elects 2-party or family coverage. Contractors who offer such coverage will be reimbursed for their employer contributions at the above rates under any City contract incorporating this wage specification." |

### Position Descriptions:

|              |                                                                                                                                                                                                                                                                                                                                        |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Custodian I  | Any employee performing general clean-up duties using equipment that does not require special training: i.e., dust mopping, damp mopping, vacuuming, emptying trash, spray cleaning, washing toilets, sinks, walls, cleaning chairs, etc.                                                                                              |
| Custodian II | Any employee performing specialized cleaning duties requiring technical training and the use of heavy and technical equipment, i.e., heavy machine operators floor strippers and waxers, carpet shampooers, spray buffing, re-lamping, mopping behind machines, high ladder work, chemical stripping and finishing of stainless steel. |

## DIA Oil and Gas Wages

Last Revision: 4-3-2014  
Effective: 3-19-2015

| Classification:                | Base Wages:    | Fringes:      |
|--------------------------------|----------------|---------------|
| <b>Mechanic</b>                | <b>\$22.05</b> | <b>\$6.56</b> |
| <b>Pipefitter</b>              | <b>\$24.59</b> | <b>\$6.86</b> |
| <b>Rig/Drill Operator</b>      | <b>\$20.88</b> | <b>\$6.43</b> |
| <b>Derrick Hand/Roustabout</b> | <b>\$13.87</b> | <b>\$5.62</b> |
| <b>Truck Driver</b>            | <b>\$20.37</b> | <b>\$6.37</b> |

Service Contract Act Wage Determination No. 2005-2081 Rev No. 15 was used to obtain the base wages and fringe benefits.

### **HEAVY EQUIPMENT MECHANIC**

The Heavy Equipment Mechanic analyzes malfunctions and repairs, rebuilds and maintains power equipment, such as cranes, power shovels, scrapers, paving machines, motor graders, trench-digging machines, conveyors, bulldozers, dredges, pumps, compressors and pneumatic tools. This worker operates and inspects machines or equipment to diagnose defects, dismantles and reassembles equipment, using hoists and hand tools, examines parts for damage or excessive wear, using micrometers and gauges, replaces defective engines and subassemblies, such as transmissions, and tests overhauled equipment to insure operating efficiency. The mechanic welds broken parts and structural members, may direct workers engaged in cleaning parts and assisting with assembly and disassembly of equipment, and may repair, adjust and maintain mining machinery, such as stripping and loading shovels, drilling and cutting machines, and continuous mining machines.

### **PIPEFITTER, MAINTENANCE**

The Pipefitter, Maintenance installs or repairs water, steam, gas or other types of pipe and pipefitting. Work involves most of the following: laying out work and measuring to locate position of pipe from drawings or other written specifications, cutting various sizes of pipe to correct lengths with chisel and hammer, oxyacetylene torch or pipe-cutting machines, threading pipe with stocks and dies. This person is responsible for bending pipe by hand-driven or power-driven machines, assembling pipe with couplings and fastening pipe to hangers, making standard shop computations relating to pressures, flow and size of pipe required; and making standard tests to determine whether finished pipes meet specifications. In general, the work of the Maintenance Pipefitter requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

### **WELL DRILLER**

This incumbent sets up and operates portable drilling rig (machine and related equipment) to drill wells, extends stabilizing jackscrews to support and level drilling rig, moves levers to control power-driven winch that raises and extends telescoping mast. This person bolts trusses and guy wires to raise mast and anchors them to machine frame and stakes, and assembles drilling tools, using hand tools or power tools. The Well Driller moves levers and pedals to raise tools into vertical drilling position and lowers well casing (pipe that shores up walls of well) into well bore, using winch, moves levers and pedals and turns hand wells to control reciprocating action of machine and to drive or extract well casing.

**LABORER**

The Laborer performs tasks that require mainly physical abilities and effort involving little or no specialized skill or prior work experience. The following tasks are typical of this occupation: The Laborer loads and unloads trucks, and other conveyances, moves supplies and materials to proper location by wheelbarrow or hand truck; stacks materials for storage or binning, collects refuse and salvageable materials, and digs, fills, and tamps earth excavations, The Laborer levels ground using pick, shovel, tamper and rake, shovels concrete and snow; cleans culverts and ditches, cuts tree and brush; operates power lawnmowers, moves and arranges heavy pieces of office and household furniture, equipment, and appliance, moves heavy pieces of automotive, medical engineering, and other types of machinery and equipment, spreads sand and salt on icy roads and walkways, and picks up leaves and trash.

**TRUCKDRIVER, HEAVY TRUCK**

Straight truck, over 4 tons, usually 10 wheels. The Truckdriver drives a truck to transport materials, merchandise, equipment, or workers between various types of establishments such as: manufacturing plants, freight depots, warehouses, wholesale and retail establishments, or between retail establishments and customers' houses or places of business. This driver may also load or unload truck with or without helpers, make minor mechanical repairs, and keep truck in good working order.



## Glycol Facility Wages

Effective: 7-2-2015

| <b>Classification:</b>    | <b>SCA Title</b>               | <b>Base Wage</b> | <b>Fringes</b> | <b>Total</b>   |
|---------------------------|--------------------------------|------------------|----------------|----------------|
| Deicing Facility Operator | Water Treatment Plant Operator | <b>\$22.79</b>   | <b>\$6.65</b>  | <b>\$29.44</b> |
| Maintenance Mechanic      | Machinery Maintenance Mechanic | <b>\$23.43</b>   | <b>\$6.72</b>  | <b>\$30.15</b> |
| Material Handling Laborer | Material Handling Laborer      | <b>\$17.36</b>   | <b>\$6.02</b>  | <b>\$23.38</b> |

Service Contract Act Wage Determination No. 2005-2081 Rev No. 15 was used to obtain the base wages and calculate fringe benefits.

**FIRE EXTINGUISHER REPAIRER**

Last Revision: 09/25/2014  
Effective Date: 09/03/2015

Classification:

Base Wages:

Fringes:

**Fire Extinguisher Repairer**

**\$18.97/hour**

**\$6.46/hour**

The Fire Extinguisher Repairer performs the following duties: repairs and tests fire extinguishers in repair shops and in establishments, such as factories, homes, garages, and office buildings, Using hand tools and hydrostatic test equipment, this repairer dismantles extinguisher and examines tubings, horns, head gaskets, cutter disks, and other parts for defects, and replaces worn or damaged parts. Using hand tools, this repairer cleans extinguishers and recharges them with materials, (such as soda water and sulfuric acid, carbon tetrachloride, nitrogen or patented solutions); tests extinguishers for conformity with legal specifications using hydrostatic test equipment, and may install cabinets and brackets to hold extinguishers.

**FURNITURE MOVERS**

(Moving, Storage and Cartage Workers)

Last Revision: 10-9-2014

Effective: 10-22-2015

| Classification:       | <u>Base Wage</u> | <u>Fringes</u> |
|-----------------------|------------------|----------------|
| <b>Laborer/Helper</b> | \$17.36/hour     | \$6.27/hour    |
| <b>Driver/Packer</b>  | \$17.43/hour     | \$6.28/hour    |
| <b>Lead Worker</b>    | \$18.22/hour     | \$6.37/hour    |

**LANDSIDE PARKING ELECTRONICS TECHNICIAN**

Last Revision: 10-9-2014

Effective: 10-22-2015

| Classification:                                | <u>Base Wage</u> | <u>Fringes</u> |
|------------------------------------------------|------------------|----------------|
| <b>Landside Parking Electronics Technician</b> | \$22.14/hour     | \$6.82/hour    |

Plus 10% shift differential for regularly scheduled hours worked between 6:00 p.m. and 6:00 a.m.

This classification of work installs, modifies, troubleshoots, repairs and maintains revenue control equipment at manned and unmanned parking entrance and exit gates. Replaces consumable items such as tickets, printer ribbons, and light bulbs. Replaces modules and related equipment as needed to repair existing equipment, modify applications, or resolve unusual problems. Troubleshoots, tests, diagnoses, calibrates, and performs field repairs. Performs preventive maintenance such as inspection, testing, cleaning, lubricating, adjusting and replacing of serviceable parts to prevent equipment failure for electromechanical control in order to minimize repair problems and meet manufacturers' specifications.

**SIGN ERECTOR**

Last Revision: 10-15-2009

Effective: 10-15-2010

| Classification:     | <u>Base Wage</u> | <u>Fringes</u> |
|---------------------|------------------|----------------|
| <b>Sign Erector</b> | \$20.19/hour     | \$3.80/hour    |

This classification of work erects, assembles, and/or maintains signs, sign structures and/or billboards using various tools. Erects pre-assembled illuminated signs on buildings or other structures according to sketches, drawings, or blueprints. Digs and fills holes, places poles. Bolts, screws, or nails sign panels to sign post or frame. Replaces or repairs damaged or worn signs. May use welding equipment when installing sign. This classification is not a licensed electrician and therefore cannot make connections to power sources (i.e., provide exit lighting).

**TELEDATA TECHNICIAN**

Effective 09/16/2014 the Teledata Technician classification will utilize the base pay and fringe benefits for the Electrician classification under the Davis Bacon Building wage determination.

**TILE SETTER-MARBLE MASONS-TERRAZZO  
FINISHERS, FLOOR GRINDERS, AND BASE GRINDERS**

Effective: 7-2-2015

| Classification:                             | <u>Base Wage</u> | <u>Fringes</u> |
|---------------------------------------------|------------------|----------------|
| <b>Finisher (Tile-<br/>Marble-Terrazzo)</b> | \$20.24/hr       | \$8.14/hr      |

Effective May 1, 2008, Local Union 7 of Colorado combined three classes of Finishers, Floor Grinders, and Base Grinders into Finisher using one pay schedule.

## TRANSIT TECHNICIANS

Last Revision: 12-18-2014

Transit Technician Series Effective: 12-18-15

Elevator Repairer Effective: 12-18-2015

| <u>Classification:</u>             | <u>Base Wage</u> | <u>Fringes</u>                                                     |
|------------------------------------|------------------|--------------------------------------------------------------------|
| <b>Transit Technician - Entry</b>  | \$22.21/hour     | \$6.83/hour                                                        |
| <b>Transit Technician - Senior</b> | \$24.28/hour     | \$7.07/hour                                                        |
| <b>Transit Technician - Lead</b>   | \$25.38/hour     | \$7.20/hour                                                        |
| <b>Elevator Mechanic/Repairer</b>  | \$41.47/hour     | \$34.05/hour (< 5 yrs. service)<br>\$34.88/hour (> 5 yrs. service) |

In addition, Shift differentials of eight percent (8%) of the employee's straight time pay rate for the second shift and ten percent (10%) for the third shift for straight time work regularly scheduled providing more than (50%) of the employee's work occurred on such shift.

**Transit Technician-Entry:** Associates in this position will be given instruction by on-the-job and/or classroom training to perform corrective and preventive maintenance, inspections, repairs, and adjustments to all systems, subsystems, and components of an electronic, mechanical, electro/mechanical, hydraulic, and pneumatic nature. This classification of workers may assist with routine preventive maintenance, inspection, and adjustment. Tasks and procedures are well established and require close supervision. Incumbents will follow the direction of higher level personnel in preventive or corrective maintenance phases of work. Most tasks will be of an apprentice nature and will require close supervision. Incumbents will progress to the journey level after one year as a Transit Technician-Entry.

**Transit Technician-Senior:** This is a full performance level class performing various corrective and preventive maintenance, inspections, repairs, and adjustments to all systems, subsystems, and components of an electronic, mechanical, electro-mechanical, hydraulic, and pneumatic nature; monitors the transit system via a central computer system to make automated adjustments in the operation and maintenance of the transit system.

**Transit Technician-Lead:** Performs lead technical duties such as making work assignments and conducting on-the-job informal training as well as performing various tasks involved with the operation and maintenance of the transit system. The Lead Transit Technician is the specialist in terms of hands-on diagnosis and troubleshooting various problems that may arise on the transit system.

**Elevator Repairer:** The SCA-Directory of Occupations describes, Elevator Repairer as, "repairs and maintains "Automated People Movers" and like named devices used in the transportation of people and materials including, but not limited to elevators, escalators, dumbwaiters, and moving walkways to meet safety regulations and building codes. This worker trouble shoots and determines causes of trouble in brakes, electrical motors, switches, signal and control systems, using computers, test lamps, voltmeters, ammeters, and oscilloscopes, disassembles defective units and repairs or replaces parts such as electrical door locks, cables, electrical wiring and faulty safety devices installs push button control systems, complete control systems, and other devices to modernize automated people mover systems, and cleans and lubricates bearing and other parts to minimize friction."

**TREE TRIMMERS**

Last Revision: 10-15-2009  
Effective: 10-15-2010

| Classification:     | <b><u>Base Wage</u></b> | <b><u>Fringes</u></b> |
|---------------------|-------------------------|-----------------------|
| <b>Tree Trimmer</b> | \$16.77/hour            | \$2.48/hour           |

This classification of work trims, removes, and applies insecticides to trees and shrubbery including trimming dead, diseased, or broken limbs from trees utilizing rope and saddle, chain, handsaw and other related equipment common to the care of trees and shrubs. Removes limbs, branches and other litter from the work area, observes safety rules, inspects and identifies tree diseases and insects of the area distinguishing beneficial insects and environmental stress, takes samples from diseased or insect infested trees for lab analysis, operates a wide variety of heavy and power equipment in trimming and removing trees and shrubbery i.e. mobile aerial tower unit, tandem trucks, loaders, chipper, etc., maintains all equipments.

## WINDOW CLEANERS

Last Revision: 12-18-2015

Effective: 2-18-2016

| Classification:       | <u>Base Wage</u> | <u>Fringes</u>                                                    |
|-----------------------|------------------|-------------------------------------------------------------------|
| <b>Window Cleaner</b> | \$24.01/hour     | \$8.19/hr (Single)<br>\$10.25/hr (2-Party)<br>\$12.21/hr (Family) |

### Benefits/Overtime

|                    |                                                                                                                                                                                                                                                                                                                                                |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Parking            | With valid monthly parking receipt from approved parking lot, employees are reimbursed for the cost of parking. The employer shall reimburse employees for parking expenses from other parking lots up to the amount reimbursed for DIA Employee Parking Lot upon the submission of a monthly parking receipt. Only (1) one receipt per month. |
| Shift Differential | \$0.75 per hour for employees assigned to 3rd shift (11:00 p.m. to 7:00 a.m.)                                                                                                                                                                                                                                                                  |
| Overtime           | One and one-half (1½) times the basic rate of pay in excess of 7.5 hours worked per day or 37.5 hours worked per week.                                                                                                                                                                                                                         |
| Lunch              | Any employee working seven and a half (7.5) hours in a day is entitled to a thirty (30) minute paid lunch.                                                                                                                                                                                                                                     |
| Lead Work          | \$1.25 per hour above highest paid employee under supervision                                                                                                                                                                                                                                                                                  |
| High Work          | \$1.75 per hour (21 feet or more from ground (base) to top of surface/structure being cleaned)                                                                                                                                                                                                                                                 |
| Training           | \$0.25 per hour                                                                                                                                                                                                                                                                                                                                |
| ECOPASS            | The Company will provide an Eco-Pass to all bargaining unit employees or pay \$.24 per hour for travel differential.                                                                                                                                                                                                                           |

Note: The Career Service Board in their public hearing on April 3, 2008, approved to amend prevailing wages paid to the Window Cleaners as follows: "All contractors shall provide fringe benefits or cash equivalent at not less than the single rate amount. Contractors who offer health insurance shall provide an employer contribution to such insurance of not less than the 2-party or family rate for any employee who elects 2-party or family coverage. Contractors who offer such coverage will be reimbursed for their employer contributions at the above rates under any City contract incorporating this wage specification."

**Pest Controller**

Last Revision: 9-25-2014  
Effective Date: 9-3-2015

| Classification:        | <b><u>Base Wage</u></b> | <b><u>Fringes</u></b> |
|------------------------|-------------------------|-----------------------|
| <b>Pest Controller</b> | \$20.41/hour            | \$6.63 /hour          |

The Pest Controller sprays chemical solutions or toxic gases and sets mechanical traps to kill pests that infest buildings and surrounding areas, fumigates rooms and buildings using toxic gases, sprays chemical solutions or dusts powders in rooms and work areas, places poisonous paste or bait and mechanical traps where pests are present; may clean areas that harbor pests, using rakes, brooms, shovels, and mops preparatory to fumigating; and may be required to hold State license



**EXHIBIT G**  
**Payment and Performance Bond**

**CITY AND COUNTY OF DENVER**  
**DEPARTMENT OF PUBLIC WORKS**  
**PERFORMANCE AND PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned **FCI Constructors, Inc. 4015 Coriolis Way, Frederick, Colorado 80504**, a corporation organized and existing under and by virtue of the laws of the State of **Colorado**, hereafter referred to as the "Contractor", and **Western Surety Company, 333 S. Wabash Avenue, Chicago, Illinois 60604**, a corporation organized and existing under and by virtue of the laws of the State of **South Dakota**, 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 **Twelve Million Eight Hundred Four Thousand Nine Hundred Eighty Four Dollars and Fifty-Six Cents \$12,804,984.56**, 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 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. 201736327 - DENVER 911 COMMUNICATION CENTER RELOCATION**, 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;

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 31st day of July, 2017.

Attest: [Signature]  
Secretary

FCI Constructors, Inc  
Contractor

[Signature]  
By: Vice President  
Bryan Hemeyer  
Western Surety Company  
Surety

[Signature]  
By: Attorney In Fact Kristin L. Salazar

(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

By: [Signature]  
Assistant City Attorney

APPROVED FOR THE CITY AND COUNTY OF  
DENVER

By: [Signature]  
Mayor

By: [Signature]  
Exec. Dir. of Public Works  
4

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Kristin L. Salazar, **Individually**

of Greenwood Village, CO its true and lawful Attorney-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

Surety Bond No: 30020478

Principal: FCI Constructors, Inc.

Obligee: City and County of Denver

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 1st day of December, 2015.



WESTERN SURETY COMPANY

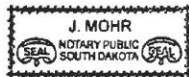
Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 1st day of December, 2015, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2021



J. Mohr, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 31st day of July, 2017.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

**EXHIBIT H**

**Final/Partial Lien Release Form**

**FINAL/PARTIAL RELEASE AND CERTIFICATE OF PAYMENT  
(SUBCONTRACTOR/SUPPLIER)**

\_\_\_\_\_  
(PROJECT NO. and NAME)

Date: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(NAME OF CONTRACTOR)

Subcontract #: \_\_\_\_\_.

\_\_\_\_\_  
(NAME OF SUBCONTRACTOR/SUPPLIER)

Subcontract Value: \$ \_\_\_\_\_.

Last Progress Payment: \$ \_\_\_\_\_.

Date: \_\_\_\_\_.

Total Paid to Date: \$ \_\_\_\_\_.

Date of Last Work: \_\_\_\_\_.

Check Applicable Box:

MBE     WBE

The Undersigned hereby certifies that all costs, charges or expenses incurred by the undersigned or on behalf of the undersigned for any work, labor or services performed and for any materials, supplies or equipment provided on the above referenced Project or used in connection with the above referenced Subcontract (the "Work Effort") have been duly paid in full.

The Undersigned further certifies that each of the undersigned's subcontractors and suppliers that incurred or caused to be incurred, on their behalf, costs, charges or expenses in connection with the undersigned's Work Effort on the above referenced Project have been duly paid in full.

In consideration of \$\_\_\_\_\_ representing the Last Progress Payment referenced above and in further consideration of the Total Paid to Date, also referenced above, and other good and valuable consideration received and accepted by the undersigned this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Undersigned hereby releases and discharges the City and County of Denver (the "City"), the above referenced City Project, the City's premises and property and the above referenced Contractor from all claims, liens, rights, liabilities, demands and obligations, whether known or unknown, of every nature arising out of or in connection with the performance of the work effort.

As additional consideration for the payments referenced above, the undersigned agrees to defend, indemnify and save and hold harmless the City, its officers, employees, agents and assigns and the above-referenced Contractor from and against all costs, losses, damages, causes of action, judgments under the subcontract and expenses arising out of or in connection with any claim or claims against the City or the Contractor which arise out of the Undersigned's performance of the Work Effort and which may be asserted by the Undersigned or any of its suppliers or subcontractors of any tier or any of their representatives, officers, agents, or employees.

It is acknowledged that this release is for the benefit of and may be relied upon by the City and the referenced Contractor.

The foregoing shall not relieve the undersigned of any obligation under the provisions of the Undersigned's subcontract, as the subcontract may have been amended, which by their nature survive completion of the Undersigned's work effort including, without limitation, warranties, guarantees, insurance requirements and indemnities.

STATE OF COLORADO ) ss.  
CITY OF \_\_\_\_\_)

\_\_\_\_\_  
(Name of Subcontractor)

Signed and sworn before me this  
day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Commissioner of Oaths  
My Commission Expires

Title: \_\_\_\_\_

**EXHIBIT I**

**Notice to Proceed Form**



**Denver Public Works**

Engineering Division  
Capital Projects Management - Dept. 506  
Right-of-Way Services - Dept 507  
Traffic Engineering Services - Dept 508  
Policy and Planning - Dept. 509

201 West Colfax Ave, Dept 614  
Denver, CO 80202  
[www.work4denver.com](http://www.work4denver.com)

Current Date

**NOTICE TO PROCEED  
(SAMPLE)**

Name  
Company  
Street  
City/State/Zip

**CONTRACT NO. «CONTRACT\_NO», «PROJECT\_NAME»**

In accordance with General Contract Condition 302 of the Standard Specifications for Construction, General Contract Conditions, 2011 Edition, you are hereby authorized and directed to proceed on \_\_\_\_\_ with the work of constructing contract number \_\_\_\_\_ «Contract\_No», as set forth in detail in the contract documents for the City and County of Denver.

With a contract time of \_\_\_\_\_ calendar days, the project must be complete on or before \_\_\_\_\_.

If you have not already done so, you must submit your construction schedule, in accordance with General Contract Condition 306.2.B, to the Project Manager within 10 days. Additionally, you must submit your tax exempt certificate, and copies of your subcontractors' certificates, in accordance with General Contract Condition 323.5, to the Project Manager as soon as possible. Failure to submit these certificates will delay processing of payment applications.

Sincerely,

Lesley B. Thomas  
City Engineer


cc:



**Protecting the Present & Building the Future**  
Accountability, Innovation, Empowerment, Performance, Integrity,  
Diversity, Teamwork, Respect, Excellence, Safety

## EXHIBIT J

### Contractor's Certification of Payment Form

|                                                                                                                                                                                                                                                                                              |                                                          |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|--------------------|--------------------|------------------------------------|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|-----------------------------------------------------|---------------------|------------------------------|
|                                                                                                                                                                                                             | City and County of Denver                                |                    |                    |                                    |                                                 | Office of Economic Development<br>Compliance Unit<br>201 W. Colfax Ave., Dept. 907<br>Denver, CO 80202<br>Phone: 720.913.1999<br>Fax: 720.913.1903 |                                             |                                                     |                     |                              |
|                                                                                                                                                                                                                                                                                              | Division of Small Business Opportunity                   |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
|                                                                                                                                                                                                                                                                                              | Contractor's/Consultant's Certification of Payment (CCP) |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
|                                                                                                                                                                                                                                                                                              |                                                          |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
| Prime Contractor or Consultant:                                                                                                                                                                                                                                                              |                                                          | Phone:             |                    |                                    | Project Manager:                                |                                                                                                                                                    |                                             |                                                     |                     |                              |
| Pay Application #:                                                                                                                                                                                                                                                                           |                                                          | Pay Period:        |                    |                                    | Amount Requested: \$                            |                                                                                                                                                    |                                             |                                                     |                     |                              |
| Project #:                                                                                                                                                                                                                                                                                   |                                                          | Project Name:      |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
| Current Completion Date:                                                                                                                                                                                                                                                                     |                                                          | Percent Complete:  |                    |                                    | Prepared By:                                    |                                                                                                                                                    |                                             |                                                     |                     |                              |
| (I) - Original Contract Amount: \$                                                                                                                                                                                                                                                           |                                                          |                    |                    | (II) - Current Contract Amount: \$ |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
|                                                                                                                                                                                                                                                                                              |                                                          | A                  |                    | B                                  | C                                               | D                                                                                                                                                  | E                                           | F                                                   | G                   | H                            |
| Prime/Subcontractor/Supplier Name                                                                                                                                                                                                                                                            | M/W/B/<br>DBE/<br>NON                                    | Original<br>Amount | Contract<br>Amount | % Bid<br>(A/I)                     | Current Contract Amount<br>Including Amendments | %<br>Revised<br>(C/II)                                                                                                                             | Requested Amount of this<br>Pay Application | Amount Paid on the<br>Previous Pay<br>Application # | Net Paid<br>To Date | Paid %<br>Achieved<br>(G/II) |
|                                                                                                                                                                                                                                                                                              |                                                          |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
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| <b>Totals</b>                                                                                                                                                                                                                                                                                |                                                          |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
| <small>The undersigned certifies that the information contained in this document is true, accurate and that the payments shown have been made to all subcontractors and suppliers used on this project and listed herein. Please use an additional form, if more space is necessary.</small> |                                                          |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
| Prepared By (Signature):                                                                                                                                                                                                                                                                     |                                                          |                    |                    |                                    |                                                 |                                                                                                                                                    | Date:                                       |                                                     |                     |                              |
| Page of                                                                                                                                                                                                                                                                                      |                                                          |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |
| COMP-FRM-027 rev 022311                                                                                                                                                                                                                                                                      |                                                          |                    |                    |                                    |                                                 |                                                                                                                                                    |                                             |                                                     |                     |                              |





## Instructions for Completing the Contractor/Consultant Certification of Payment Form

Office of Economic Development  
Division of Small Business Opportunity  
**Compliance Unit**  
201 W. Colfax Ave., Dept. 907  
Denver, CO 80202  
Phone: 720-913-1999  
Fax: 720-913-1803  
dsbo@denvergov.org

**Note:** The attached Contractor/Consultant Certification of Payment form must be completed by the Contractor/ Subconsultant and all subcontractors/subconsultant or suppliers used on the project at any tier and submitted with each pay application. The Contractor/Consultant is responsible for the accuracy of all information provided and is required to have each subcontractor/subconsultant or supplier fill out the appropriate forms. Please be sure to complete all information requested at the top of the form, including the name of the person who prepared this form.

If you reproduce this form, you must continue to list each of the originally listed firms, as well as any additional firms used during the performance period of the contract.

If you have any questions, please call the Compliance Unit of DSBO at 720.913.1999.

### Instructions for Completing the Contractor/Consultant Certification of Payment Form, per Column

**Contractor/Subcontractor or Subconsultant/Supplier Name:** In the space provided, list all subcontractors/ subconsultants and suppliers used on the project. For all M/W/S/DBEs use the exact name listed in the DSBO Directory.

**M/W/S/DBE/NON:** For each name listed, indicate whether the entity is a certified M/W/S/DBE.

**Column A:** Provide the contract amount, as listed at bid time, for the Contractor/Consultant and each subcontractor/subconsultant or supplier.

**Column B:** Provide the percentage portion of each listed subcontractor/subconsultant or supplier contract amount (Column A) compared to the total original contract amount in (I).

**Column C:** Provide the original contract amount (Column A) for each subcontractor/subconsultant or supplier plus any awarded alternate and/or change order amounts applicable. If an alternate/change order does not apply to the listed firm, re-enter the original contract amount (Column A).

**Column D:** Provide the percent portion of each listed subcontractor/subconsultant or supplier contract amount (Column C) compare to the current total contract amount in (II).

**Column E:** Provide the amount requested for work performed or materials supplied by each listed subcontractor/subconsultant or supplier for this pay application. The sum of the items in this column should equal the estimated amount requested for this pay application.

**Column F:** Provide the amount paid to each subcontractor/subconsultant or supplier on the previous pay application. Enter the previous pay application number in the column heading. The sum of the items listed in this column should equal the warrant amount paid to the Contractor/Consultant on the previous pay application. The amounts paid to the subcontractor/subcontractor or suppliers should be the actual amount of each check issued.

**Column G:** Provide the net paid to date for the Contractor/Subconsultant and each listed subcontractor/subconsultant or supplier.

**Column H:** Provide the percent portion of the net paid to date (Column G) for the Contractor/Subconsultant and each listed subcontractor/subconsultant or supplier of the current total contract amount in (II).

COMP-REF-031

Rev 032211 JG

**EXHIBIT K**

**Final Receipt Form - Certificate of Final Release**



**Denver Public Works**

Engineering Division  
Capital Projects Management – Dept. 506  
Right-of-Way Services – Dept 507  
Traffic Engineering Services – Dept 508  
Policy and Planning – Dept. 509  
201 West Colfax Ave, Dept 614  
Denver, CO 80202  
[www.work4denver.com](http://www.work4denver.com)

Certificate of Contract Release  
(SAMPLE)

Date

Name

Company

Street

City/State/Zip

RE: Certificate of Contract Release for  
«CONTRACT NO», «PROJECT NAME»

Received this date of the City and County of Denver, as full and final payment of the cost of the improvements provided for in the foregoing contract, \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_), in cash, being the remainder of the full amount accruing to the undersigned by virtue of said contract; said cash also covering and including full payment for the cost of all extra work and material furnished by the undersigned in the construction of said improvements, and all incidentals thereto, and the undersigned hereby releases said City and County of Denver from any and all claims or demands whatsoever, regardless of how denominated, growing out of said contract.

And these presents are to certify that all persons performing work upon or furnishing materials for said improvements under the foregoing contract have been paid in full and this payment to be made is the last or final payment.

\_\_\_\_\_  
Contractor’s Signature

\_\_\_\_\_  
Date Signed

If there are any questions, please contact me by telephone at (720) 913-XXXX. Please return this document via facsimile at (720) 913-1805 and mail to original to the above address.

FOR CITY SERVICES VISIT | CALL  
[DenverGov.org](http://DenverGov.org) | 311

**Protecting the Present & Building the Future**  
Accountability, Innovation, Empowerment, Performance, Integrity,  
Diversity, Teamwork, Respect, Excellence, Safety



EXHIBIT L  
Incorporated by Reference  
Plans

EXHIBIT M  
Incorporated by Reference  
Technical Specifications

Exhibit N



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**Denver 911 Relocation, REV 3**

Project Location: 12025 E 45th Ave  
 Estimate Type: GMP  
 Estimator: Chris McNamara

Project Duration: 8 Months  
 Printed On: 7/19/17 11:29 AM  
 Project SF 43,000

| Description                                      | Total Cost              | \$ per SF        |
|--------------------------------------------------|-------------------------|------------------|
| Division 01 GENERAL REQUIREMENTS                 | \$ 431,672              | \$ 10.04         |
| Division 02 EXISTING CONDITIONS                  | \$ 196,058              | \$ 4.56          |
| Division 03 CONCRETE                             | \$ 363,706              | \$ 8.46          |
| Division 04 MASONRY                              | \$ 51,637               | \$ 1.20          |
| Division 05 METALS                               | \$ 178,468              | \$ 4.15          |
| Division 06 WOOD & PLASTIC                       | \$ 170,594              | \$ 3.97          |
| Division 07 THERMAL & MOISTURE PROTECTION        | \$ 259,402              | \$ 6.03          |
| Division 08 DOORS & WINDOWS                      | \$ 363,686              | \$ 8.46          |
| Division 09 FINISHES                             | \$ 1,195,595            | \$ 27.80         |
| Division 10 SPECIALTIES                          | \$ 357,645              | \$ 8.32          |
| Division 11 EQUIPMENT                            | \$ 24,052               | \$ 0.56          |
| Division 12 FURNISHINGS                          | \$ 10,130               | \$ 0.24          |
| Division 13 SPECIAL SYSTEMS                      | \$ 326,362              | \$ 7.59          |
| Division 14 CONVEYING SYSTEMS                    | \$ -                    | \$ -             |
| Division 21 FIRE SUPPRESSION                     | \$ 187,670              | \$ 4.36          |
| Division 22 PLUMBING                             | \$ 20,884               | \$ 0.49          |
| Division 23 HVAC                                 | \$ 2,350,150            | \$ 54.65         |
| Division 26 ELECTRICAL                           | \$ 3,498,641            | \$ 81.36         |
| Division 27 COMMUNICATIONS                       | \$ 36,200               | \$ 0.84          |
| Division 28 ELECTRONIC SAFETY & SECURITY         | \$ -                    | \$ -             |
| Division 31 EARTHWORK                            | \$ 215,059              | \$ 5.00          |
| Division 32 EXTERIOR IMPROVEMENTS                | \$ 1,331,393            | \$ 30.96         |
| Division 33 UTILITIES                            | \$ 38,889               | \$ 0.90          |
| BUILDING PERMIT, PLAN CHECK FEE                  | BY OTHERS \$ -          |                  |
| BID CONTINGENCY                                  | 0.00% \$ -              |                  |
| CONSTRUCTION CONTINGENCY                         | 3.00% \$ 348,237        |                  |
| GENERAL LIABILITY INSURANCE                      | BY FCI \$ 87,777        |                  |
| BUILDER'S RISK INSURANCE                         | BY FCI \$ 4,013         |                  |
| PERFORMANCE AND PAYMENT BOND                     | BY FCI \$ 62,671        |                  |
| FCI OVERHEAD AND FEE                             | 3.50% \$ 429,046        |                  |
| <b>ESTIMATE TOTAL:</b>                           | <b>\$ 12,539,637</b>    | <b>\$ 291.62</b> |
| Owner Contingency                                | \$ 250,000              | <b>per sf</b>    |
| Textura Fee                                      | \$ 15,347.56            |                  |
| <b>Total with Owners Contingency and Textura</b> | <b>\$ 12,804,984.56</b> |                  |



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## ALLOWANCES

### Denver 911 Relocation, REV 3

Project Location: 12025 E 45th Ave  
Estimate Type: GMP  
Estimator: Chris McNamara

Revision:

Printed On: 7/18/17 3:41 PM  
Project SF 43,000

| Description   |                                                                                                              |
|---------------|--------------------------------------------------------------------------------------------------------------|
| Allowance #1  | We are carrying \$49,287 for PDU's at the Datacenter racks, specification is needed.                         |
| Allowance #2  | We are carrying \$1,590 for 30 pin mounted aluminum letters at the main entry K4 rated wall                  |
| Allowance #3  | We have included \$12,000 for 90 Life/ Saftey and Room signs                                                 |
| Allowance #4  | We are carrying \$30,000 for Hot Aisle Containment at the Data Center.                                       |
| Allowance #5  | We are carrying \$1,824 for film on the exterior windows at the Ops Room.                                    |
| Allowance #6  | We have included \$25,000 for exterior concrete patching and interior epoxy injection at columns.            |
| Allowance #7  | We have included \$3,000 for minor tuck and patch at the exterior stone panels.                              |
| Allowance #8  | We have included \$5,000 for above ceiling code upgrades at the Shell area.                                  |
| Allowance #9  | We have included \$7,500 for Koldlok grommets at the Data Center                                             |
| Allowance #10 | We have included \$1,000 to repair and/ or install vertical brake metal at the precast concrete panel joints |
| Allowance #11 | We have included \$1,500 for a stainless steel or aluminum pole at the Breakroom kiosk                       |
| Allowance #12 | We have included \$4,500 for demolition of (1) tree by a licensed Arborist                                   |
| Allowance #13 | We have included \$22,560 for X-Ray of the existing double tees                                              |
| Allowance #14 | We have included \$25,000 for moisture mitigation at new flooring                                            |
| Allowance #15 | We have included \$28,551 for Major Floor Prep                                                               |
| Allowance #16 | We have included \$5,000 to repair and/or seal the existing generator shroud                                 |

**Total allowances included \$223,312**

4015 CORIOLIS WAY, FREDERICK, CO 80504 (970) 535-4725 (970) 535-4867 Fax



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## ALTERNATE SUMMARY

**Denver 911 Relocation, REV 3**

Project Location: 12025 E 45th Ave  
 Estimate Type: GMP  
 Estimator: Chris McNamara

Revision: 3

Printed On: 7/18/17  
 Project SF 43,000

| Alternate | Description                                                                                     | Total Cost | Status  | Accepted   | Rejected | Pending    |
|-----------|-------------------------------------------------------------------------------------------------|------------|---------|------------|----------|------------|
| 1         | Add 2nd Backflow Preventer per Facilities request                                               | \$6,304    | Pending |            |          | \$6,304    |
| 2         | Demo carpet at Area B                                                                           | \$12,375   | Pending |            |          | \$12,375   |
| 3         | Electrical- Add extended warranty on UPS (from 3 years to 5 years)                              | \$13,871   | Pending |            |          | \$13,871   |
| 4         | Eliminate tank water heater and install (26) point of use electric water heaters                | (\$14,000) | Pending |            |          | (\$14,000) |
| 5         | Add to have separate NOVEC 1230 Clean Agent system at Fire Line Shop independent of Data Center | \$17,270   | Pending |            |          | \$17,270   |
| 6         | Perform an Environmental Assessment prior to removal of the existing fuel storage tank          | \$5,500    | Pending |            |          | \$5,500    |
| 7         | Flooring Alternate A1- Replace LVT with VCT                                                     | (\$8,050)  | Pending |            |          | (\$8,050)  |
| 8         | Substitute a Titan double wall fuel storage tank in lieu of the specified fiberglass            | (\$16,840) | Pending |            |          | (\$16,840) |
| 9         | Supply and install new 24 Ga. Prefinished parapet cap in lieu of re-using existing              | \$7,134    | Pending |            |          | \$7,134    |
| 10        | Finish one of the shotcrete shear walls (at Ops Room) with a rod finish                         | \$4,290    | Pending |            |          | \$4,290    |
| 11        | Provide a K4 rated crash wall in lieu of a K8 rated crash wall                                  | (\$24,000) | Accept  | (\$24,000) |          |            |
| 12        | Provide Architectural texture on face of concrete signage wall (ROM pending specification)      | \$3,696    | Pending |            |          | \$3,696    |
| 13        | Utilize 2" Silent Fiber Polyboard by Sound Acoustic Solutions in lieu of F-Sorb                 | (\$12,000) | Pending |            |          | (\$12,000) |
| 14        | Provide load bank testing of the UPS units                                                      | \$6,050    | Pending |            |          | \$6,050    |

\$ (24,000) \$ - \$ 25,600



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## CLARIFICATIONS

### Denver 911 Relocation, REV 3

Project Location: 12025 E 45th Ave  
Estimate Type: GMP  
Estimator: Chris McNamara

Revision:

Printed On: 7/21/17 9:08 AM  
Project SF 43,000

#### Description

- Clarification #1 Mechanical pricing includes (1) new backflow preventer
- Clarification #2 Screening of AHU's is currently not included
- Clarification #3 Trane Equipment and controls are currently in the base bid
- Clarification #4 Estimates for Seismic on Electrical, Plumbing, Mechanical and Fire Sprinkler are included based on the details provided.
- Clarification #5 We have included one tap off of the existing Sprinkler system at the South to water the planters
- Clarification #6 Measurement and Verification for MEP is not currently included for LEED
- Clarification #7 We have not included 2hr rating on data, fire or telephone cabling
- Clarification #8 We have included CAT6 to Access Control and CCTV cameras however it is NOT 2hr rated as no CAT6 2hr rating exists
- Clarification #9 A clean agent Fire Suppression system (NOVEC 1230) is currently included at the Data Center
- Clarification #10 We have not included removing ACM at the columns, we anticipate this area will be encapsulated with drywall
- Clarification #11 We have not included painting of the ductwork at the Ops floor and breakroom.
- Clarification #12 Deleted
- Clarification #13 We have included manual roller shades at Area A exterior windows by Lu-Tek and horizontal mini blinds at interior windows.
- Clarification #14 We have included (2) Operators at the West entrance
- Clarification #15 Deleted
- Clarification #16 Hairline cracks at the Exterior Precast to be addressed by the painter.
- Clarification #17 We have excluded Epoxy Grout at floor and wall tile.
- Clarification #18 We have excluded Exterior Trash Receptacles as they are not shown on the Landscaping drawings
- Clarification #19 We anticipate re-using the existing parapet cap. Note- after reinstall it will not look like new.
- Clarification #20 We have assumed electricity and usage fees will be provided by the owner.
- Clarification #21 The largest gate available from Tymetal Corp is 30' which we have included. If 32' is required we may have to switch to a different Mfr.
- Clarification #22 We have not included an Environmental Assessment to remove the existing fuel tank, see alternates for this cost.
- Clarification #23 Precast concrete deadmen are included to hold down the UST, we have excluded a concrete pad underneath the UST
- Clarification #24 23 11 13 1.04 D We are excluding a stress and movement analysis for fuel oil piping.

|                   |                                                                                                                                                                                                                                                                                 |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clarification #25 | 23 11 13 #1.13 B and C We are excluding a five year warranty in valves and leak detection systems                                                                                                                                                                               |
| Clarification #26 | Deleted                                                                                                                                                                                                                                                                         |
| Clarification #27 | 23 11 13 3.07 Leak detection cable is excluded, however leak detection via other means is included.                                                                                                                                                                             |
| Clarification #28 | Deleted                                                                                                                                                                                                                                                                         |
| Clarification #29 | We included StaticWorx "ShadowFX" "Patterns" "Appalachain Trail" ESD Carpeting at the raised access floor and circulation of the Ops room.                                                                                                                                      |
| Clarification #30 | We have included 116' of K8 rated fence at the North side of the site opposite of Paris Street                                                                                                                                                                                  |
| Clarification #31 | We have included gun finish only for the shotcrete walls                                                                                                                                                                                                                        |
| Clarification #32 | Material testing and special inspections by Owner                                                                                                                                                                                                                               |
| Clarification #33 | Acoustical wall panels are excluded                                                                                                                                                                                                                                             |
| Clarification #34 | We have not included excavation below bottom of existing footing                                                                                                                                                                                                                |
| Clarification #35 | We have included only 1" spray foam insulation at the exterior walls                                                                                                                                                                                                            |
| Clarification #36 | We have not included sealing the concrete underneath the Ops Floor, we have included cleaning and sealing under the Data Center                                                                                                                                                 |
| Clarification #37 | We anticipate existing interior and exterior subgrade is suitable.                                                                                                                                                                                                              |
| Clarification #38 | We have included covering the walls per the notes with FRP at the Janitors closets                                                                                                                                                                                              |
| Clarification #39 | We are excluding Annex F from NEC 708                                                                                                                                                                                                                                           |
| Clarification #40 | We have not included any re-work at the existing storm inlet in the West entry pan                                                                                                                                                                                              |
| Clarification #41 | Deleted from Clarifications (Moved tree demo to allowances)                                                                                                                                                                                                                     |
| Clarification #42 | We have included blanking off the exterior doors at Area B                                                                                                                                                                                                                      |
| Clarification #43 | Cable under the OPS floor is anticipated to be Non-Plenum rated since it is not a return air plenum.                                                                                                                                                                            |
| Clarification #44 | See Electrical estimate detail Section 26 indicating previously accepted VE items that may not be reflected in the current electrical documents.                                                                                                                                |
| Clarification #45 | We are not including snack or soda vending machines, this is assumed by Owner                                                                                                                                                                                                   |
| Clarification #46 | We have assumed the Kronos clocks are Owner furnished Owner installed                                                                                                                                                                                                           |
| Clarification #47 | The Mechanical Specifications are now requesting a 5 year warranty which we have excluded, except for standard equipment warranties<br>such as those for compressors and heat exchangers.                                                                                       |
| Clarification #48 | We are excluding seismic bracing on Unit Heaters and VAV boxes that are less than 75lbs.                                                                                                                                                                                        |
| Clarification #49 | UST- Simplex duplex 7 GPM supply pump and 17 GPM return pump with integrated cabinet heater (in lieu of inline pipe heater)                                                                                                                                                     |
| Clarification #50 | UST- Simplex 10 GPM smart filter fuel polisher system                                                                                                                                                                                                                           |
| Clarification #51 | UST- Veeder Root TLS-450 plus with probe, sump sensors and overfill alarm                                                                                                                                                                                                       |
| Clarification #52 | Signs are not priced as photopolymer                                                                                                                                                                                                                                            |
| Clarification #53 | We have included Rhyolite boulders                                                                                                                                                                                                                                              |
| Clarification #54 | We have priced the Fire Sprinklers as Light Hazard classification                                                                                                                                                                                                               |
| Clarification #55 | CCTV- Assumes Owner will provide network connectivity, network infrastructure, video recording server, POE switches, UPS                                                                                                                                                        |
| Clarification #56 | Landscape maintenance is not included                                                                                                                                                                                                                                           |
| Clarification #57 | Moderco is included in our base bid for the Operable Partition                                                                                                                                                                                                                  |
| Clarification #58 | Mill and overlay at the ROW is a 4' full depth patch and a 10' wide, 2" mill and overlay which covers the 4' patch                                                                                                                                                              |
| Clarification #59 | We are taking exception to the Static Dissipative Carpet specification section 09-68-16 page 7 paragraph 3.03 f, there is a sentence<br>requiring a copper "strip" every 1000 square feet or the minimum of 1 per room. There is not a definition on what the copper "strip" is |

---

"strip" is so we are excluding it. We have included bonding all of the work stations and the floor every 1,000sf.

---

Clarification #60 We have included Textura payment management system

---

Clarification #61 Per the OAC meeting on 6/13/17 Trend Log Item #17 has been accepted, substitute Plam end panels at bathrooms in lieu of solid surface

---

Clarification #62 We have not included spray foam at Area B but have picked up a small amount at the North wall of Bathroom 198A

---

Clarification #63 The area between the car chargers and adjacent HC parking is included as new rock mulch

---

Clarification #64 Area between Gridlines A and B and 1 to 4 will be left alone since it is existing landscaping with rock mulch

---

Clarification #65 Opening 194B is excluded - not found in the plans

---

Clarification #66 We have assumed a depth of 4" for all of the onsite concrete sidewalks

---

Clarification #67 We have excluded the washer and dryer

---

Clarification #68 We have included a diesel mix as recommended by Hill Petroleum with additives at the price of \$2.23/gallon

---

Clarification #69 GMP pricing is based on the 100% CD plans and specifications dated June 2nd, 2017

---

**4015 CORIOLIS WAY, FREDERICK, CO 80504 (970) 535-4725 (970) 535-4867 Fax**





**FCI CONSTRUCTORS, INC.**  
**STANDARD RENTAL RATES**  
 USE D-DAY W-WEEK M-MONTH  
 APPLICABLE TO FCI OWNED EQUIPMENT ONLY

JOB: \_\_\_\_\_  
 JOB NO.: \_\_\_\_\_  
 PHASE: \_\_\_\_\_  
 MONTH: \_\_\_\_\_

| <b>SURVEY</b>                                  |        |        |          |  |  |  |  |  |  |  |
|------------------------------------------------|--------|--------|----------|--|--|--|--|--|--|--|
| LASER (LEVEL, ROTATING)                        | 33.00  | 106.00 | 233.00   |  |  |  |  |  |  |  |
| ROBOTIC TOTAL STATION                          | 225.00 | 810.00 | 2,695.00 |  |  |  |  |  |  |  |
| REBAR LOCATOR                                  | 27.00  | 78.00  | 162.00   |  |  |  |  |  |  |  |
| THEODOLITE                                     | 112.00 | 335.00 | 670.00   |  |  |  |  |  |  |  |
| TOTAL STATION                                  | 63.00  | 225.00 | 715.00   |  |  |  |  |  |  |  |
| <b>TRUCKS/TRAILERS/STORAGE</b>                 |        |        |          |  |  |  |  |  |  |  |
| 16' FLATBED TRAILER                            | 120.00 | 240.00 | 485.00   |  |  |  |  |  |  |  |
| 16' CARPENTER TRAILER (ENCLOSED)               | 120.00 | 240.00 | 485.00   |  |  |  |  |  |  |  |
| COMPRESSOR TR.                                 | 182.00 | 536.00 | 1,295.00 |  |  |  |  |  |  |  |
| GENERATOR TR.                                  | 150.00 | 450.00 | 1,300.00 |  |  |  |  |  |  |  |
| OFFICE TRAILER                                 |        |        | 450.00   |  |  |  |  |  |  |  |
| PICKUP                                         |        |        | 1,025.00 |  |  |  |  |  |  |  |
| PICKUP (ON SITE USE ONLY)                      |        |        | 500.00   |  |  |  |  |  |  |  |
| PICKUP WITH SNOWPLOW                           |        |        |          |  |  |  |  |  |  |  |
| STORAGE VAN (CON-X)                            | 25.00  | 75.00  | 225.00   |  |  |  |  |  |  |  |
| TRASH DUMP TRAILER (12')                       | 99.00  | 225.00 | 445.00   |  |  |  |  |  |  |  |
| WATER TANK WITH TRAILER                        | 158.00 | 465.00 | 945.00   |  |  |  |  |  |  |  |
| BRUSH HOG TOW BEHIND                           | 225.00 | 520.00 | 1,170.00 |  |  |  |  |  |  |  |
| <b>TOOLS AND MISC.</b>                         |        |        |          |  |  |  |  |  |  |  |
| 60# HAMMER AIR                                 | 76.00  | 227.00 | 490.00   |  |  |  |  |  |  |  |
| 90# HAMMER AIR                                 | 95.00  | 250.00 | 540.00   |  |  |  |  |  |  |  |
| COMPACTOR JUMPING                              | 107.00 | 330.00 | 590.00   |  |  |  |  |  |  |  |
| CORE DRILL 2"-5" (+BIT WEAR)                   | 133.00 | 220.00 | 810.00   |  |  |  |  |  |  |  |
| DEMOLITION SAW                                 | 67.00  | 175.00 | 525.00   |  |  |  |  |  |  |  |
| DRYWALL TEXTURE SPRAYER (30 GAL)               | 44.00  | 113.00 | 335.00   |  |  |  |  |  |  |  |
| ELECT. HAMMER (T-905)                          | 95.00  | 237.00 | 378.00   |  |  |  |  |  |  |  |
| HILTI VC 40-U WET/DRY VAC (DUST COLLECTOR)     | 22.00  | 87.00  | 260.00   |  |  |  |  |  |  |  |
| PAINT SPRAYER                                  | 76.00  | 225.00 | 452.00   |  |  |  |  |  |  |  |
| PALLET JACK                                    | 72.00  | 197.00 | 468.00   |  |  |  |  |  |  |  |
| PLATE COMPACTOR                                | 110.00 | 300.00 | 608.00   |  |  |  |  |  |  |  |
| PRESSURE WASHER                                | 105.00 | 375.00 | 790.00   |  |  |  |  |  |  |  |
| ROTO HAMMER AND BITS                           | 87.00  | 256.00 | 600.00   |  |  |  |  |  |  |  |
| TRASH CHUTE 30" DIAM WITH MOUNTING ACCESSORIES | 68.00  | 234.00 | 675.00   |  |  |  |  |  |  |  |
| WELDER 200AMP                                  | 116.00 | 297.00 | 576.00   |  |  |  |  |  |  |  |
| WIRE FEED WELDER                               | 39.00  | 116.00 | 232.00   |  |  |  |  |  |  |  |
|                                                |        |        |          |  |  |  |  |  |  |  |
|                                                |        |        |          |  |  |  |  |  |  |  |
| <b>TOTAL</b>                                   |        |        |          |  |  |  |  |  |  |  |

\* OR 1/2 THE VALUE OF THE BLANKET(S) WHEN USED FOR A SEASON, WHICHEVER IS LESS.

Revision 2-27-2017

\*\* GPR is \$2,000.00/day; \$1000 / half-day (minimum charge)

\*\*\* Information Technology rate is \$245/month/ per user. Includes: Job Site based computers, iPads, tablets, IT hardware, and supporting software licenses & IT support.

Submitted By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Exhibit P

911 Billable Labor Rates/Change Order Rates

Date: July 27, 2017

\*\*\*Based upon RFP Submission for this project.

FIRM NAME: FCI CONSTRUCTORS, INC.

|                                        |                                           | 2017                 |
|----------------------------------------|-------------------------------------------|----------------------|
| SALARIED STAFF POSITION (CONSTRUCTION) |                                           | BILLABLE HOURLY RATE |
| 1                                      | Officers of the Company (included in fee) | ---                  |
| 2                                      | Project Executive (included in fee)       | ---                  |
| 3                                      | ***Project Manager                        | \$ 84.59             |
| 4                                      | Assistant Project Manager                 | \$ 75.60             |
| 5                                      | Project Engineer                          | \$ 68.04             |
| 6                                      | Assistant Engineer                        | \$ 55.44             |
| 7                                      | ***Project Superintendent                 | \$ 82.47             |
| 8                                      | ***Assistant Superintendent               | \$ 82.46             |
| 9                                      | ***Field Engineer                         | \$ 54.98             |
| 10                                     | MEP Coordinator                           | \$ 98.28             |
| 11                                     | ***Administrative Support                 | \$ 42.83             |
| 14                                     | Safety Director                           | \$ 95.76             |
| 15                                     | Quality Control Personnel                 | \$ 88.20             |
| 17                                     | 3D Modeling/BIM                           | \$ 73.08             |

**Exhibit Q**

August 1, 2017

Kent Grissom, Project Manager  
Public Works, Facilities Capital Projects Management  
City and County of Denver  
201 W. Colfax Ave.  
Denver, CO 80204

RE: 911 Call Center Relocation Project GMP Proposal – Self Perform Work

Dear Mr. Grissom,

As of the date of the GMP proposal FCI does not intend to self-perform work as a subcontractor. If this changes through the buy-out and subcontracting process, FCI will provide pricing to support a low competitive bid and notify the owner of the bid process and deliver our number in advance of the other subcontractor bids.

FCI will be performing minor work related items as typical for general contractor labor i.e.; housekeeping pads/miscellaneous concrete, miscellaneous carpentry, clean-up, site clean-up/erosion control, layout, minor demo, miscellaneous caulking and firestopping.

Sincerely,



Nathaniel Sperry, Assoc. DBIA  
Project Manager  
FCI Constructors, Inc.  
4015 Coriolis Way, Frederick, CO 80504  
P. (970) 535-4725 F. (970) 535-4867 C. (303) 324-0840  
[www.fciol.com](http://www.fciol.com)



*Focused On Your Vision*

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

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

|                                                                                                           |                                                                               |
|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| PRODUCER<br><b>USI Colorado, LLC Construction</b><br>P.O. Box 7050<br>Englewood, CO 80155<br>800 873-8500 | CONTACT NAME: <b>Client Manager</b>                                           |
|                                                                                                           | PHONE (A/C, No. Ext): <b>800 873-8500</b> FAX (A/C, No.): <b>303-831-5295</b> |
|                                                                                                           | E-MAIL ADDRESS: <b>den.contractors@usi.com</b>                                |
|                                                                                                           | INSURER(S) AFFORDING COVERAGE                                                 |
|                                                                                                           | INSURER A : <b>Arch Insurance Company</b> NAIC # <b>11150</b>                 |
|                                                                                                           | INSURER B : <b>Travelers Property Cas. Co. of</b> <b>25674</b>                |
|                                                                                                           | INSURER C : <b>Indian Harbor Insurance Company</b> <b>36940</b>               |
|                                                                                                           | INSURER D :                                                                   |
|                                                                                                           | INSURER E :                                                                   |
|                                                                                                           | INSURER F :                                                                   |

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

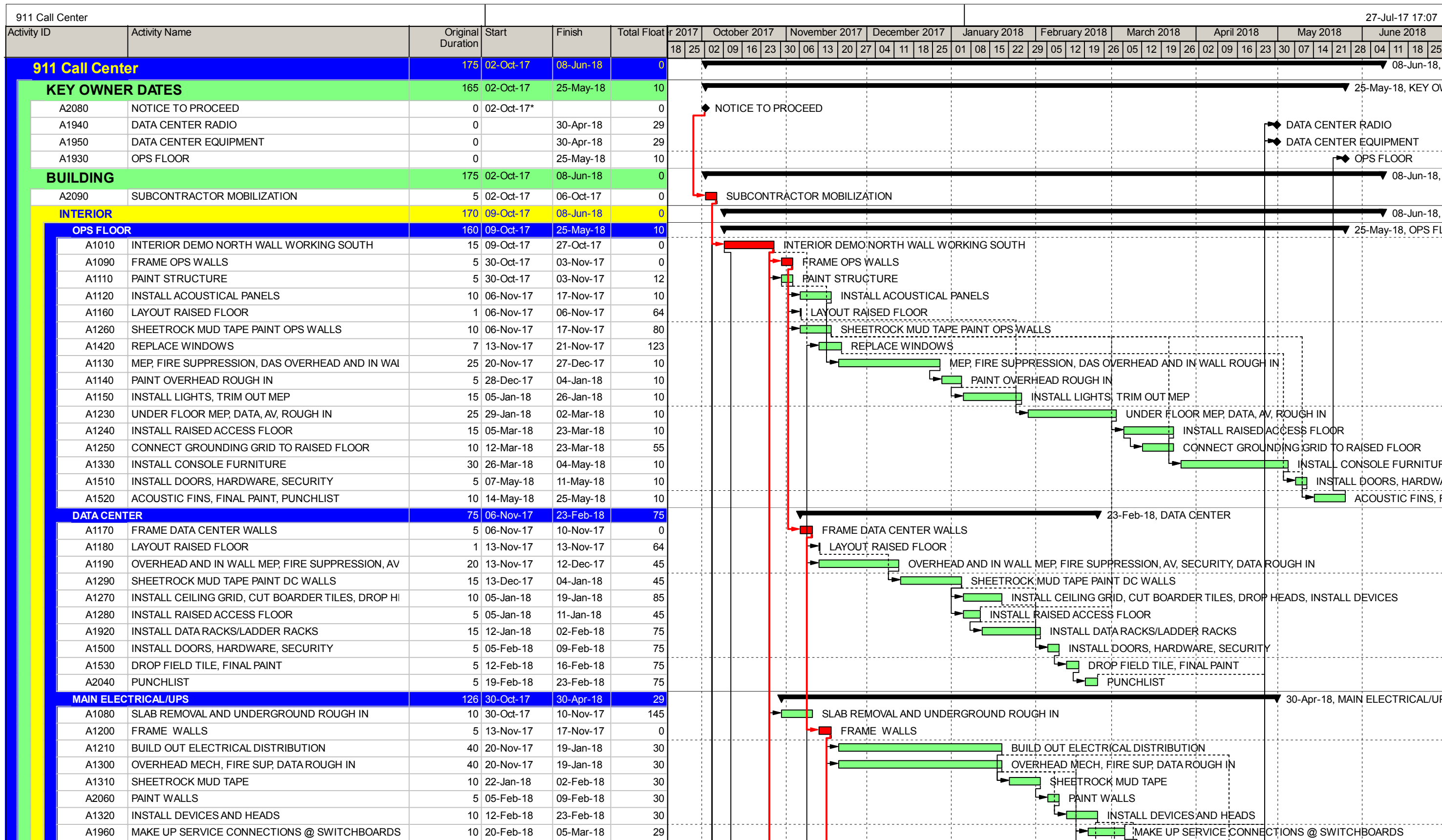
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE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

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                                   | ADDL INSR | SUBR WVD | POLICY NUMBER   | POLICY EFF (MM/DD/YYYY)  | POLICY EXP (MM/DD/YYYY)  | LIMITS                                                                                                                                                                                                                                                                                    |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|-----------------|--------------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A        | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC<br>OTHER: | X         | X        | ZAGLB9220000    | 10/01/2016               | 10/01/2017               | EACH OCCURRENCE \$ <b>1,000,000</b><br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b><br>MED EXP (Any one person) \$ <b>10,000</b><br>PERSONAL & ADV INJURY \$ <b>1,000,000</b><br>GENERAL AGGREGATE \$ <b>2,000,000</b><br>PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b><br>\$ |
| A        | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY<br><input checked="" type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS<br><input checked="" type="checkbox"/> HIRED AUTOS<br><input type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> NON-OWNED AUTOS          | X         | X        | ZACAT9242100    | 10/01/2016               | 10/01/2017               | COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b><br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                                                                                                    |
| B        | <input checked="" type="checkbox"/> UMBRELLA LIAB<br><input type="checkbox"/> EXCESS LIAB<br>DED <input checked="" type="checkbox"/> RETENTION \$0                                                                                                                                                                  | X         | X        | ZUP15P9635716NF | 10/01/2016               | 10/01/2017               | EACH OCCURRENCE \$ <b>25,000,000</b><br>AGGREGATE \$ <b>25,000,000</b><br>\$                                                                                                                                                                                                              |
| A        | <input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y/N <input type="checkbox"/> N/A<br>(Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below                  |           | X        | ZAWCI9389200    | 10/01/2016               | 10/01/2017               | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER<br>E.L. EACH ACCIDENT \$ <b>1,000,000</b><br>E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b><br>E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>                                                            |
| C        | <input checked="" type="checkbox"/> Pollution Liab<br><input checked="" type="checkbox"/> Professional Liab<br>Retro Date 4/1/99                                                                                                                                                                                    |           |          | CEO7446741      | 10/01/2016<br>10/01/2016 | 10/01/2018<br>10/01/2018 | \$ <b>2,000,000</b> Each Claim<br>\$ <b>2,000,000</b> Aggregate<br>\$ <b>50,000</b> Retention                                                                                                                                                                                             |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
**RE: Denver 911 Communication Center Relocation, 12025 & 45th Ave., Denver, CO 80239.**  
 As required by written contract, the City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers are included as Additional Insured as respects the Commercial General Liability and Business Auto.

|                                                                                                                                                                                |                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CERTIFICATE HOLDER</b><br><br>City and County of Denver<br>Denver Public Works Facilities<br>Capital Projects Management<br>201 W Colfax Ave. Dept. 506<br>Denver, CO 80202 | <b>CANCELLATION</b><br><br>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.<br><br>AUTHORIZED REPRESENTATIVE<br><br><i>Valeria Howard</i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Exhibit S



■ Actual Work   
 ■ Critical Remaining Work   
 ▼ Summary  
■ Remaining Work   
 ◆ Milestone





| Activity ID | Activity Name | Original Duration | Start | Finish | Total Float | 2017 |    |    |    |    |    |    |    |    |    |    |    | 2018 |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
|-------------|---------------|-------------------|-------|--------|-------------|------|----|----|----|----|----|----|----|----|----|----|----|------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
|             |               |                   |       |        |             | 18   | 25 | 02 | 09 | 16 | 23 | 30 | 06 | 13 | 20 | 27 | 04 | 11   | 18 | 25 | 01 | 08 | 15 | 22 | 29 | 05 | 12 | 19 | 26 | 02 | 09 | 16 | 23 | 30 | 07 | 14 |

