

## **LICENSE & AGREEMENT**

**THIS LICENSE & AGREEMENT** (the “**Agreement**”), made and entered into this, effective as of the date set forth on the City’s signature page below (“**Effective Date**”), by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation (the “**City**”) and **CIVIC CENTER CONSERVANCY**, a Colorado nonprofit corporation, with a principal address of 110 16<sup>th</sup> Street, Suite 905, Denver, Colorado 80202 (“**Licensee**”).

### **RECITALS**

**WHEREAS**, Licensee proposes to partner with local artists for the installation or certain artwork in Civic Center Park; and

**WHEREAS**, the intended artwork requires electrical power to properly and fully operate the artwork; and

**WHEREAS**, Licensee requests permission from the City and the Department of Parks and Recreation (“DPR”) to install utility improvements in Civic Center Park (the “Park”), originating from an electrical panel located at the southeast corner of the nearby McNichols Building in order to operate the artwork; and

**WHEREAS**, the utility improvement shall remain permanent and become the property of the City, and the City shall have access to the improvements after removal of the artwork; and

**WHEREAS**, the Parties agree that the utility improvement supports a public purpose and park purpose with regard to the intended artwork as well as for future uses for events and other activities in the park; and

**WHEREAS**, the City wishes to allow the Licensee to install the utility improvements in the Park for the operation of the intended artwork as well as for future park use.

**NOW, THEREFORE**, in consideration of the above, and the mutual promises and covenants contained herein, the City and Licensee agree as follows:

1. **License for Utility Installation:**

A. **The Artwork:** Denver Arts and Venue has agreed by separate agreement to allow the installation of artwork as set forth in the Purchase Order, attached as **Exhibit A** to this agreement.

B. **Grant of License:** For the duration of this Agreement, the City hereby grants Licensee a temporary, revocable and non-transferable license to access and utilize City

property for the purpose of installing, repairing, maintaining and removing the utility improvement in the Park, in the location depicted in **Exhibit B** as needed for the operation for the intended artwork and for the protection and restoration of the Park after removal of the artwork, all performed at Licensee's sole cost and expense, and subject to the terms and conditions of this Agreement.

C. Utility: The term "**Utility**," as used herein, refers to the electrical installation to be installed by Licensee and as described in documents provided to the City. Licensee represents and warrants that the Utility shall remain in good, sound and safe working order upon and after installation, and upon transfer of ownership to the City.

D. Site: The term "**Site**", as used herein, refers to the location within the Park where the Utility will be placed, as depicted in **Exhibit B**.

E. Work: Licensee will perform or cause to be performed all work items and provide or obtain all funds necessary to satisfactorily install, repair, maintain, operate and remove the Utility in accordance with the terms and conditions of this Agreement. Licensee shall confirm that the Utility does not need to be secured to the ground and will not present a hazard or danger to the public.

F. Subcontractor: Licensee is authorized to use the services of a subcontractor to exercise the license granted under this Agreement, provided that the subcontractor agrees to comply with the terms and conditions of this Agreement. Any reference to "Licensee" below shall include its subcontractor; however, the City shall have no liability under any such subcontract. Notwithstanding the terms and conditions of any subcontract, Licensee shall remain responsible and liable to the extent provided in this Agreement.

G. Property Interest: No property interests in the Site, including any lease or easement, are hereby granted in the Site or the Park. Ownership of the Utility shall be held by Licensee, subject to the terms and conditions of this Agreement, until the artwork is removed. After removal, all right, title and ownership in the Utility shall transfer to the City.

## 2. Coordination and Liaison:

A. The City's Executive Director of Parks and Recreation (the "**Executive Director**") is vested with the authority to act on behalf of the City in performing the City's obligations under this Agreement. The Executive Director designates the Superintendent of the park district in which the Park is located (the "**Superintendent**") to act as the authorized

representative of the Executive Director. The City may change its authorized representative at any time by providing written notice to Licensee of such change.

B. Licensee shall appoint, and inform the Superintendent, of its authorized representative under this Agreement who will be responsible for overseeing the satisfactory installation, maintenance of the Utility, in accordance with the terms and conditions of this Agreement. Licensee may change its authorized representative at any time by providing written notice to the Superintendent of such change.

3. **City Rights and Obligations:** The City shall have the following rights and obligations with respect to the Facility:

A. The timing, access, and staging for all installation, repair, maintenance, and work for the Utility at or near the Site shall be subject to the prior written approval of the Superintendent. The Superintendent shall have the right to supervise the work to the extent necessary to assure that the work does not substantially interfere with the use of the Park by patrons and maintenance and operational activity of DPR staff (“**Park Use**”).

B. The Superintendent shall work with Licensee in the preparation of the Site for the installation and other associated work of the Utility and arrange for the relocation or removal of any minor impediments to the installation and operation of the Utility within the Site.

4. **Licensee’s Rights and Obligations:** Except as otherwise provided in this Agreement, Licensee shall have sole responsibility with respect to installing and maintaining, the Utility.

A. Before any work is commenced for the installation of the Utility, Licensee shall submit to the Superintendent a set of documents fully describing the Utility and plans for the installation of the Utility, including any repairs to the Site and Park necessitated by the installation, maintenance or repair of the Facility (“**Documents**”). The Documents shall be updated upon the Superintendent approving any major repairs to the Utility. The Documents will be approved or disapproved, in writing, with the reasons for any disapproval being stated, within five (5) business days of receipt of the original or updated set of Documents. Any deficiencies in the Documents shall be remedied by Licensee, to the reasonable satisfaction of the Superintendent, prior to the commencement of work. A proposed schedule and operational plan shall also be submitted to assist the Superintendent in determining the best times and methods for minimizing impacts on and interference with Park Use.

B. Temporary Construction & Access Permit. Prior to the commencement of any surface disturbance or occupation in the Park or the Site, now or in the future, Licensee, its employees, agents, contractors, or other party responsible for the Utility installation shall apply for and obtain a Temporary Construction and Access Permit from DPR and shall observe and comply with all requirements, terms, and conditions of said Permit, including any specifications or requirements for connecting to or using the City's electrical line. In the event of an emergency requiring immediate surface disturbing activity or occupancy of the Park or the Site, the Licensee shall obtain a Temporary Construction and Access Permit as soon as reasonably practicable. Special measures must be taken, and approved by DPR, for protecting the public and assuring the Park remains open during any work

C. During the term of this agreement, and while the artwork is installed in the Park, Licensee shall be solely responsible for all costs and expenses necessary for the installation, maintenance, and repair of the Utility and for assuring that funds for the such costs and expenses are available, when needed, to pay for all work including equipment and material suppliers and labor providers. This obligation shall terminate upon transfer of ownership of the Utility to the City.

D. Licensee shall at all reasonable hours ensure right of entry to any City inspector or other authorized agent of the City to the Site to conduct tests and evaluations to determine that the work performed and materials used are of good quality and in conformance with the approved Documents and applicable building code requirements. If it is determined that the work is not being so performed, the Executive Director may order the cessation of the work until there is satisfactory evidence that the work conforms to the approved Documents or applicable building code requirements.

E. The City shall not charge Licensee for the City's activities under this paragraph 4, including Document review, inspections, material testing, and construction monitoring. Standard building permit fees and other fees mandated by existing ordinance or rule for construction approvals or street occupancy will be paid by Licensee.

F. Licensee shall be solely responsible for assuring that any work on or for the Facility is properly contracted and performed and that the work done and the materials used are in conformance with all applicable laws (local, state, and federal) that govern the performance of the work.

G. Licensee and its contractors and subcontractors shall obtain and maintain all building and other required permits and pay all permit fees and charges and applicable taxes levied by the State and the City.

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

I. Licensee shall be responsible for maintaining the Utility while the artwork is in the Park and for assuring that the Utility is properly secured and does not present any danger or hazard to the public, City employees, or other persons who may come into proximity to the Utility.

J. Any damage to the Site or the Park arising from or caused by any work or activities under this Agreement shall be promptly repaired by Licensee at Licensee's sole expense. Vegetation and any irrigation in and around the Site shall be restored to the same or better condition as existed prior to any work being performed on Site.

5. **Term:** The term of this Agreement shall commence on October 1, 2017, and shall run through February 1, 2018, unless terminated by mutual consent of the City and Licensee or terminated or revoked as provided in paragraph 6 below.

6. **Revocation/Termination:**

A. This Agreement may be terminated, without cause and at any time, by either party upon written notice at least thirty (30) days in advance of the date of termination.

B. The City may elect to immediately revoke the license and terminate the Agreement if the Executive Director determines, within the Executive Director's reasonable discretion, that the Utility has not been properly installed, operated, maintained or repaired such that the Utility presents a threat of danger to public health or safety and Licensee has not

undertaken prompt or sufficient measures to rectify the situation following verbal or written notice from the City.

C. Upon any termination or revocation and in the time and manner prescribed by the Superintendent, Licensee shall promptly remove the Utility and restore the Site and Park to its original condition, to the reasonable satisfaction of the Superintendent.

D. Insurance and liability obligations under this Agreement shall survive the revocation of the license or the termination of the Agreement.

7. **Insurance:**

A. **General Conditions:** Licensee agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations and activities described in this Agreement. Licensee shall keep the required insurance coverage in force at all times during the term of the Agreement or any extension thereof. 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 is canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the Executive Director. 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, Licensee shall provide written notice of cancellation, non-renewal and any reduction in coverage to the Executive Director 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 Executive Director must be notified by Licensee. Licensee 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 Licensee. Licensee shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

B. **Proof of Insurance:** Licensee shall provide a copy of this Agreement to its insurance agent or broker. Licensee may not commence services or work relating to the

Agreement prior to placement of coverage required by this Agreement. Licensee certifies that the certificate of insurance attached as **Exhibit C**, 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 Licensee's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

C. Additional Insureds: For Commercial General Liability and Business Auto Liability, Licensee's insurer(s), and any subcontractors' insurer(s), shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

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

E. 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 Licensee. Licensee shall include all such subcontractors and subconsultants 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. Licensee agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

F. Workers' Compensation/Employer's Liability Insurance: Licensee 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. Licensee expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Licensee'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 Licensee executes this Agreement.

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

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

I. Additional Provisions:

(1) For Commercial General Liability coverage, the policy 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, separation of insureds or cross liability provision; and
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(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.

(3) For claims-made coverage, Licensee shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At Licensee's own expense, where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, Licensee shall procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

8. Performance & Payment Bond: Prior to commencement of any of any work in the Park, the Licensee's contractors shall furnish bond(s), in substantially the same form as **Exhibit D**, to Licensee and Parks assuring one hundred percent (100%) performance and labor and material payment of the construction activity in the amount of one hundred percent (100%) of the construction contract price and guaranteeing prompt and faithful performance of this



Agreement and prompt and complete payment by the Colorado Seminary's contractors to all persons supplying labor, equipment, or materials.

9. **Liability, Indemnification & Governmental Immunity:**

A. Liability: Licensee agrees and affirms that the City shall have no financial liability for any acts or failure to act by Licensee under this Agreement.

B. Indemnification and Defense:

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

(ii) The Licensee's duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether an action has been filed in court on the Claim. The User's duty to defend and indemnify the City shall arise even if the City is the only party sued and/or it is alleged that the City's negligence or willful misconduct was the sole cause of the alleged damages.

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

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

(v) This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

C. **Contractor Indemnification:** In the event that Licensee contracts for any work to be performed on the Property, Licensee shall require its contractors and subcontractors to indemnify, defend and hold harmless the City, its employees and agents from any and all claims, damages and liabilities whatsoever for injury or death to persons or damage to property arising from the contractors' and/or subcontractors' actions or inactions.

D. **Governmental Immunity:** Nothing in this Agreement has waived, limited or reduced the monetary limitations and all other rights, immunities and protections provided to the City by the Colorado Governmental Act, C.R.S. § 24-10-101, *et seq.*

10. **No Discrimination in Employment:** In connection with the performance of work under this Agreement, the Parties agree 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, gender identity or gender expression, age, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all contracts and subcontracts hereunder.

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

12. **Limitation on Application of Agreement:** The provisions of this Agreement shall not be construed to supersede, limit, waive, or modify other agreements between the parties currently existing or entered in the future between the parties.

13. **Notices:** Any notices, responses, or communications given hereunder may be personally delivered or sent by first class mail, addressed to the following:

To the City:

Executive Director  
Department of Parks and Recreation  
City and County of Denver  
201 West Colfax Avenue, Dept. 601  
Denver, CO 80202

City Attorney  
Municipal Operations Section  
201 W. Colfax Avenue, Dept. 1207  
Denver, CO 80202

To Licensee:

Civic Center Conservancy  
110 16<sup>th</sup> Street, Suite 905  
Denver, Colorado 80202

The contacts and addresses specified above may be changed by the parties at any time upon written notice to the other party.

14. **Audit.** Licensee agrees that any duly authorized representative of the City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Licensee involving transactions related to this Agreement.

15. **Conflict of Interest:** The parties agree that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in this Agreement.

16. **No Personal Liability:** No elected official, director, officer, agent, or employee of the City shall be charged personally or held contractually liable by or to the State of Colorado under any term or provision of this Agreement or because of any breach or violation thereof or because of the execution, approval, or attempted execution of this Agreement.

17. **No Third-Party Beneficiaries:** The Parties expressly agree that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement,

shall be strictly reserved to the City and Licensee; and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such agreements. The City and Licensee expressly agree that any person other than the City and Licensee receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

18. **Subject to Local Laws; Venue:** Each and every term, provision or condition herein 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 applicable ordinances, regulations, executive orders, or fiscal rules, enacted or promulgated pursuant thereto. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

19. **Agreement as Complete Integration; Amendments:** This Agreement is intended as the complete integration of all understandings between the parties, and no prior or contemporaneous addition, deletion or other amendment shall have any force or effect, unless embodied herein in writing. Amendments to this Agreement will become effective only when approved by both parties and executed in the same manner as this Agreement.

20. **Severability.** The terms and conditions contained herein are several in nature. Should any one or more of the terms or conditions be judicially adjudged invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining terms or conditions. However, if the license granted under this Agreement should be deemed invalid or unenforceable, the Agreement shall terminate subject to the terms set forth in paragraph 6 above.

21. **Appropriation:** Notwithstanding any provision of this Agreement to the contrary, the City's financial obligations under this Agreement, if any, are contingent upon all funds necessary for performance under this Agreement being budgeted, appropriated and otherwise made available by the City. The Parties acknowledge that this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

22. **Execution of Agreement:** This Agreement is expressly subject to, and shall not be or become effective or binding on the City and Licensee until fully executed by all required signatories of the City and Licensee.

23. **Legal Authority**: The City and Licensee each represent that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

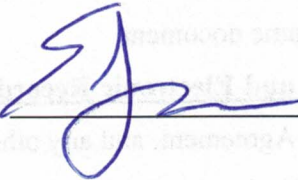
24. **Counterparts of Agreement**: This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement, and all of which, taken together, shall constitute one and the same document.

25. **Electronic Signatures and Electronic Records**: Licensee 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.

**[The Remainder of the Page is Deliberately Left Blank.  
The Signature Block Starts on the Next Page.]**

**Contract Control Number:** PARKS-201737243-00

**Contractor Name:** Civic Center Conservancy

By: 

Name: ERIC LIZZARDI  
(please print)

Title: Director of Programming & Events  
(please print)

**ATTEST: [if required]**

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



**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 \_\_\_\_\_



FOR DENVER ARTS AND VENUES USE ONLY  
NOT AN OFFICIAL CITY PURCHASE ORDER



# DENVER ARTS & VENUES

## PURCHASE ORDER REQUEST

*Please furnish a quote for goods and services for approval from Finance*

8/10/2017

**REQUESTOR INFORMATION**

Requested By: Lisa Gedgaudas  
 Phone: 720-865-4260  
 Email: lisa.gedgaudas@denvergov.org

**VENDOR INFORMATION**

[Name] Eric Lazzari  
 [Company Name] Civic Center Conservancy  
 [Street Address] 110 16th Street, Suite 905  
 [City, ST ZIP] Denver CO 80202  
 [Phone] 303.861.4633 x 21  
**Vendor Number from PeopleSoft (if applicable):**

**Shipping Preference (Choose One)**  
 N/A

**Venue (Choose One)**  
 CULTURAL PROGRAMS - 3050300

**FOR PUBLIC ART/CULTURAL PROGRAM ONLY**

**PROGRAM CODE (Choose One)**  
 X8014 - P.S. You Are Here

**FUND (Choose One)**  
 15815

**ACCOUNT CODE (Fill in if Known):**

**Description of Purchase/Need**

P.S. You Are Here is a citywide creative placemaking and neighborhood revitalization program that is community-driven projects in Denver's outdoor public spaces. Civic Center Conservancy working with local artist to design, plan and gather materials to creatively activate Civic Center Park.

x8014 PS YAH

ITEM #	DESCRIPTION (OPTIONAL IF DETAILED QUOTE ATTACHED)	QTY	UNIT PRICE	TOTAL
	Design, planning and materials for activating Civic Center Park	1	\$ 7,500.00	\$ 7,500.00
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -

**Other Comments or Special Instructions**

SUBTOTAL	\$ 7,500.00
S & H	\$ -
OTHER	\$ -
<b>TOTAL</b>	<b>\$ 7,500.00</b>

**FOR FINANCE USE ONLY**

APPROVED \_\_\_\_\_

DENIED \_\_\_\_\_

INTERNAL PO NUMBER \_\_\_\_\_

*(Signature)* 8.25.17  
 Authorized by \* \_\_\_\_\_ Date

\*signatures are acceptable

*If you have any questions about this purchase order request, please contact:*  
 For DPAC, McNichols or Cultural Programs: Heather Rhode - 720-865-4232 - heather.rhode@denvergov.org  
 For Red Rocks or Coliseum: Melanie Santistevan - 720-865-2480 - melanie.santistevan@denvergov.org  
 or A&V Finance Department A&VFINANCE@DENVERGOV.ORG



# SCOPE OF WORK

*P.S. You Are Here* Micro-grant X8014



August 10, 2017

## FOR:

Eric Lazzari  
Civic Center Conservancy  
110 16<sup>th</sup> Street, Suite 905  
Denver, CO 80202  
303.861.4633 x21

## ABOUT

*P.S. You Are Here* is a citywide creative placemaking and neighborhood revitalization program that will cultivate collaborative, community-driven, outdoor projects in Denver's public spaces.

## GRANTEE SCOPE OF WORK:

### Key Requirements

#### Projects must:

- Be located in an outdoor public space within the City and County of Denver and be consistent with city policies and adopted neighborhood plans projects
- Be on display for a suggested minimum of 3 months or up to 1 year
- Be highly visible, temporary, physical improvements
- Be free and open to all members of the public
- Must be original, "one-of-a-kind" projects that do not include logos, sponsorship signage or copyrighted work

#### Grantees will be responsible for:

- Working with and reporting to Denver Arts & Venues program administrator to support the project vision and implementation
- Supplying Denver Arts & Venues a draft and final scope and design for approval
- The installation, maintenance and de-installation of the project
- Leading the project and engaging with the surrounding community, stakeholders and residents related to the project area including neighborhood input, collaboration and volunteer opportunities
- Matching the grant award 1:1 with cash, donated goods and services, and/or volunteer hours (valued at \$20 per hour)
- Implementing the project base on the proposed timeline agreed upon with Arts & Venues
- Tracking implementation progress via written updates and images
- Considering conducting public programming including lectures, discussions, and workshops
- Supporting digital communications that engage the community using the toolkit provided by Arts & Venues
- Working with City and County of Denver departments to assure all permitting and outstanding public property needs are met
- Working with any participating partners including artist to document their process and progress on a regular basis up to completion

#### Project Description:

Working with Denver-based artist Nick Geurts and his interactive public art firm Yetiveurks as well as our partners at Denver Parks and Recreation and Denver Arts and Venues, we will bring the interactive sculptural piece "Tree of Transformation" to life in one the central planting beds of Civic Center Park.

**TOTAL BUDGET: \$7,500**

## Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**Civic Center Conservancy**

**2** Business name/d disregarded entity name, if different from above

**3** Check appropriate box for federal tax classification; check only one of the following seven boxes:  
 Individual/sole proprietor or single-member LLC  
 Limited liability company. Enter the tax classification (C=Corporation, S=S corporation, P=partnership) **\_\_\_\_\_**  
 Other (see instructions) **501 (c) 3 organization**

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) **1**  
 Exemption from FATCA reporting code (if any) **1**  
(Applies to accounts maintained outside the U.S.)

**5** Address (number, street, and apt. or suite no.)  
**110 16th Street, Suite 905**

**6** City, state, and ZIP code  
**Denver CO 80202**

**7** List account number(s) here (optional)

**8** Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number									
or									
Employer identification number									
2	0	-	2	2	1	4	2	7	9

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign this certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here**      Signature of U.S. person: *Andy Eberhart*      Date: **7/14/2016**

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.  
 Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1099-T (taxon)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

## ATTACHMENT TO PURCHASE ORDER (P.S. You Are Here)

- A. **About P.S. You Are Here:** P.S. You Are Here is a pilot citywide creative placemaking and neighborhood revitalization program to cultivate collaborative, community-driven, outdoor projects in Denver's public spaces (each selected project, the "Project").
- B. **Coordination and Liaison:** With the expressed consent of the Manager of General Services, Vendor shall fully coordinate permitting, installation, and maintenance of the Project identified in the Purchase Order and this Attachment to Purchase Order (collectively, the "Purchase Order") with the Directors of Parks and Recreation and Public Works or their designees (the "Applicable Director"), as applicable. Vendor agrees that he, she, or it shall install, maintain, and de-install the Project in accordance with applicable laws, rules, regulations, and policies of the City, including, without limitation, permitting, access, and insurance requirements. Vendor shall also be responsible for keeping the Director of Denver Arts & Venues or his or her designee (the "A&V Director") fully apprised of Vendor's progress on the Project.
- C. **Vendor Performance:** Except as may otherwise be provided by the Applicable Director, Vendor shall perform all services and furnish all supplies, material and equipment as necessary for the aesthetic design and installation of the Project, including but not limited to, payments for all necessary taxes, insurance, tools, consultants, rental equipment, and all other items incidental to producing a complete and acceptable Project.
- D. **Vendor's Conceptual Design and Execution of the Project:** Vendor has submitted an initial proposal and conceptual design for the Project. Vendor's application of the Project at the site shall be consistent with the initial proposal and conceptual design. The Project shall be appropriate to a public setting and for viewing by public officials, City employees, citizens, and the general public of all ages visiting the Site. The City may, prior to, during, and after installation of the Project, require Vendor to make such revisions to the Project as are necessary for the Project to comply with the initial proposal and conceptual design, and applicable statutes, ordinances, or regulations of the City (including, without limitation the Denver Sign Code), the State of Colorado, or the U. S. Government. The City may also request revisions to the Project for other practical and/or non-aesthetic reasons.
- E. **Display Period:** The Project is intended to be temporary for up to one year and shall be un-installed at such time and in the manner required by the Applicable Director (including, without limitation, permitting, access, and insurance requirements) upon notice of the City to Vendor to remove the Project from display.
- F. **Warranties:** Vendor represents and warrants to the City that: the aesthetic design and installation of the Project is solely the result of the artistic effort of Vendor; the Project is unique and original and does not infringe upon any copyright; that neither the Project installed hereunder, nor a duplicate thereof, has been accepted for sale or display elsewhere; the aesthetic design and installation of the Project will be performed in a workmanlike manner; and the Project will be applied to the site in such a manner as to reasonably protect it against damage or destruction by external forces, during the temporary installation. The City shall give notice to Vendor of any observed breach with reasonable promptness. Vendor shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by Vendor utilizing artistic skill and which cure is consistent with professional conservation standards as determined solely by the City.
- G. **Ownership, Maintenance, and Reproduction Rights:**
1. Vendor understands and agrees that given the temporary nature of the Project, the Visual Artists Rights Act of 1990, 17 U.S.C. §101 et. seq., as amended ("VARA") and any rights accruing thereunder do not apply to the Project. However, to the extent VARA is applicable, Vendor, as to his, her, or its rights in the Project, the provisions of this Purchase Order shall supersede the provisions of VARA, including but not limited to §106A(a) and §113, as to the Project, and that execution of this Attachment to Purchase Order by Vendor shall constitute a waiver by Vendor, as permitted in 17 U.S.C. §106A(e), as amended, of any and all rights or protections in the Project, and any uses of the Project whatsoever, set out in or otherwise granted by 17 U.S.C. §101, et seq., as amended, including but not limited to §106A(a) or §113, or otherwise in the nature of "Droit Moral" under which artists claim an interest in their work. Vendor understands and agrees that the Project is intended to be temporary and will be un-installed upon conclusion of the display period. To the extent VARA applies, Vendor retains: (i) all other right, title and interest in the Project including all copyrights, but expressly excluding any rights in the Project under VARA, 17 U.S.C. §101 et. seq., as amended, including but not limited to §106A(a) and §113, or otherwise in the nature of "Droit Moral" under which artists claim a continuing interest in their products and in the maintenance or modification of their products; and (ii) all rights expressly granted in this Attachment to Purchase Order. Vendor's waived rights as described above are,

insofar as such rights are transferable, assigned to the City. In view of the intention that the Project in its final dimension shall be unique, Vendor shall not make any additional exact duplicate, two or three-dimensional reproductions of the final Work, nor shall Vendor grant permission to others to do so except with the written permission of the City. The City is unable to grant permission of any kind for political use of the Project. The restriction on duplication or reproduction shall not apply to Vendor's use of photographic reproductions of the Project in portfolio or in critical and scholarly writings. Vendor grants to the City and its assigns an irrevocable license to make two-dimensional reproductions of the Project for non-commercial purposes, in the sole discretion of the City and its assigns, including but not limited to reproductions for advertising brochures, media publicity, catalogues or similar publications.

2. **Maintenance and Repair.** Vendor shall be responsible for any maintenance or repair of the Project; provided, however, that any maintenance or repair work shall be coordinated with and done in accordance with the requirements of the Applicable Director.
  3. **Site alteration.** Vendor agrees that the City is under no obligation to notify or consult with Vendor in the event of any proposed alteration of the site that would affect the intended character of the Project nor is the City under any obligation to maintain the integrity of the Project.
  4. **Removal, Relocation, Sale, Donation or Destruction.** Nothing in this Purchase Order shall preclude any right of the City, in its sole discretion and without notice to Vendor, (i) to remove the Project from public display, or (ii) to destroy the Project. Rather, Vendor understands and agrees that the Project is intended to be temporary and will be uninstalled upon conclusion of the display period. Vendor waives any rights which he, she, or it might have in connection with the removal or destruction of the Project under the VARA, as amended, including but not limited to §106A(a) and §113.
  5. **Surviving Covenants.** The covenants and obligations set forth in this section G shall survive the termination of the Purchase Order and shall be binding upon the parties, their heirs, legatees, executors, administrators, assigns, transferees and all their successors in interest, and the City's covenants do attach and run with the Project and shall be binding until expiration of any applicable statute of limitations.
- H. **Compliance with Patent, Trademark and Copyright Laws:** Vendor agrees that all work performed under this Agreement, shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States. Vendor further agrees that it will not utilize any protected patent, trademark or copyright in performance of its work unless the Vendor has obtained proper permission and all releases and other necessary documents. If the Vendor specifies any material, equipment, process or procedure, which is protected, the Vendor shall disclose such patents, trademarks and copyrights in the construction drawings or technical specifications. Vendor agrees to release, indemnify and save harmless the City, its officers, agents and employees, from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance or work under this Agreement which infringes upon any patent, trademark or copyright protected by law.
- I. **Indemnification:** In addition to the other indemnification requirements the Purchase Order, Vendor will further indemnify, defend and hold the City harmless from and against any claims, losses, damages, liabilities or expenses (including reasonable attorneys' fees and expenses) arising out of or resulting from any third party claim that the Project, when used by City in accordance with this Agreement, infringes, misappropriates or violates any United States patent issued as of the date hereof, copyright, trademark, trade secret or other intellectual or proprietary right of any third party. If an injunction or order is obtained against the City's use of the Project by reason of a claim of the type described above, or if in Vendors opinion, the Project is likely to become the subject of such a claim, Vendor shall take all necessary action to correct any such infringement or misappropriation to give the City the right to continue using the Project.
- J. **Volunteer Waiver Form:** Vendor may use volunteers to assist in performing the Project and related services required by the Purchase Order; provided, however, that prior to allowing volunteers to assist Vendor, Vendor shall obtain from the Director the City's Volunteer Waiver of Liability Form and shall have each volunteer execute the Volunteer Waiver of Liability Form. Vendor shall provide such executed forms to the Director prior to allowing volunteers to assist Vendor.
- K. **Workers Compensation Insurance:** Upon written authorization from the Department of Risk and provision of a fully executed "Separate Declaration Regarding Independent Status" the Workers Compensation insurance requirement in Paragraph 16 may be waived if the Vendor is engaged in an independent occupation and profession and is free from control and direction in the performance of the services contracted for herein consistent with that mandated by C.R.S. 8-

40-202(2)(a). It is understood and agreed by the parties that the City does not (1) require the Vendor to work exclusively for the City, provided that the Vendor may have elected to work exclusively for the City for the period of time specified in the term of this Agreement; (2) establish a quality standard for the Vendor, provided that the parties agree that while the City may provide plans regarding its expectancy of the work to be performed by the Vendor, the City will not oversee the actual work of the Vendor or instruct the Vendor as to how the work will be performed; (3) pay a salary or hourly wage to the Vendor instead of the fixed contract rate stated herein; (4) terminate the work of the Vendor for cause during the term of this Agreement unless the Vendor violates the terms of the Agreement or fails to produce a work product or result that meets the specific terms provided in the Agreement; (5) provide any training for the Vendor other than minimal orientation to the site or other parameters of the Vendor activity; (6) provide tools or benefits to the Vendor; (7) dictate the time of performance; except that the Agreement completion date together with the range of negotiated and mutually agreeable work hours has been established herein; (8) pay the Vendor personally instead of making City warrants payable to the professional name of the Vendor, except that in this Agreement the Vendor is an individual and sole proprietor; and (9) combine the regular operation of the City in any way with the professional or business operations of the Vendor instead of maintaining office operations separately and distinctly.

These provisions are separately stated in "Separate Declaration Regarding Independent Status", constituting the writing mandated by C.R.S. 8-40-202(2)(b), which must be signed and notarized by the Vendor and the Director. The City hereby delegates to the Director the authority to execute on behalf of the City the "Separate Declaration Regarding Independent Status."

- L. **Auto Insurance:** Upon written authorization from the Department of Risk, the auto insurance requirement may be changed from "Business Auto" insurance requirement in Paragraph 16 may be revised such that Vendor shall ensure personal automobile insurance is in force with limits of \$100,000 bodily injury per person; \$300,000 bodily injury per accident; \$50,000 property damage for all vehicles used in performing services under this Agreement. The policy will include a business use endorsement. Vendor represents, as material representations upon which the City is relying, that Vendor does not own any motor vehicles and that in performing Services under the Agreement, Vendor's owners, officers, directors, and employees use their personal vehicles. Vendor shall ensure that any person operating a motor vehicle in performing Services under the Purchase Order shall keep in full force Personal Auto Liability coverage with minimum required limits
- M. **Legal authority:** The person(s) signing and executing this Purchase Order does hereby warrant and guarantee that he/she has been fully authorized by Vendor to execute this Purchase Order on behalf of Vendor and to validly and legally bind Vendor to all the terms, performances and provisions herein set forth.

By signing below, Vendor agrees to all of the terms, performances and provisions of this Purchase Order.

  
Name

Director of Programming + Events  
Title

8/15/17  
Date

### Separate Declaration Regarding Independent Status

It is understood and agreed by and between Civic Center Conservancy, as the "Vendor", and the CITY that the status of the Vendor shall be that of an independent contractor and of a person retained on a contractual basis to perform professional or technical 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 Vendor or any of its employees or subcontractors is an employee, officer, or agent of the City under Chapter 18 of the Denver Revised Municipal Code for purposes of unemployment compensation, workers' compensation, or for any purpose whatsoever.

**Without limiting the foregoing, the parties hereby specifically acknowledge that the Vendor is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Vendor or some other entity besides the City, that the Vendor is not entitled to workers' compensation benefits from the City, and that the Vendor is obligated to pay federal and state income taxes on any monies earned pursuant to this Agreement.**

The parties recognize and agree that the Vendor is engaged in an independent occupation and profession and is free from control and direction in the performance of the services contracted for herein consistent with that mandated by C.R.S. 8-40-202(2)(a). It is understood and agreed by the parties that the City does not (a) require the Vendor to work exclusively for the City, provided that the Vendor may have elected to work for exclusively for the City for the period of time specified in the term of this Agreement; (b) establish a quality standard for the Vendor, provided that the parties agree that while the City may provide plans regarding its expectancy of the work to be performed by the Vendor, the City will not oversee the actual work of the Vendor or instruct the Vendor as to how the work will be performed; (c) pay a salary or hourly wage to the Vendor instead of the fixed contract rate stated herein; (d) terminate the work of the Vendor for cause during the term of this Agreement unless the Vendor violates the terms of this Agreement or fails to produce a work product or result that meets the specific terms provided in the Agreement; (e) provide any training for the Vendor other than minimal orientation to the site or other parameters of the Vendor activity; (f) provide tools or benefits to the Vendor; (g) dictate the time of performance, except that the Agreement completion date together with the range of negotiated and mutually agreeable work hours has been established herein; (h) pay the Vendor personally instead of making City warrants payable to the professional name of the Vendor, except that in this Agreement the Vendor is an individual and sole proprietor; and (i) combine the regular operations of the City in any way with the professional or business operations of the Vendor instead of maintaining office operations separately and distinctly.

[Signature Pages Follow]

DENVER ARTS AND VENUES:

By: [Signature]  
Name: Kent Rice  
Its: Director

STATE OF COLORADO )  
CITY AND ) ss  
COUNTY OF DENVER )

Subscribed and sworn to before me this 29 day of August, 2017, by  
Kent Rice as Director, Denver Arts and Venues.

Witness my hand and official seal.

My commission expires: May 11, 2021

**Peter Dearth**  
Notary Public  
State of Colorado  
Notary ID 20174020294  
My Commission Expires May 11, 2021

[Signature]  
Notary Public  
Address \_\_\_\_\_

VENDOR:

By: [Signature]  
Name: Eric Kazzari  
Its: Director of Programming & Events

STATE OF )  
CITY AND ) ss  
COUNTY OF DENVER )

Subscribed and sworn to before me this 14th day of August,  
2017 by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_

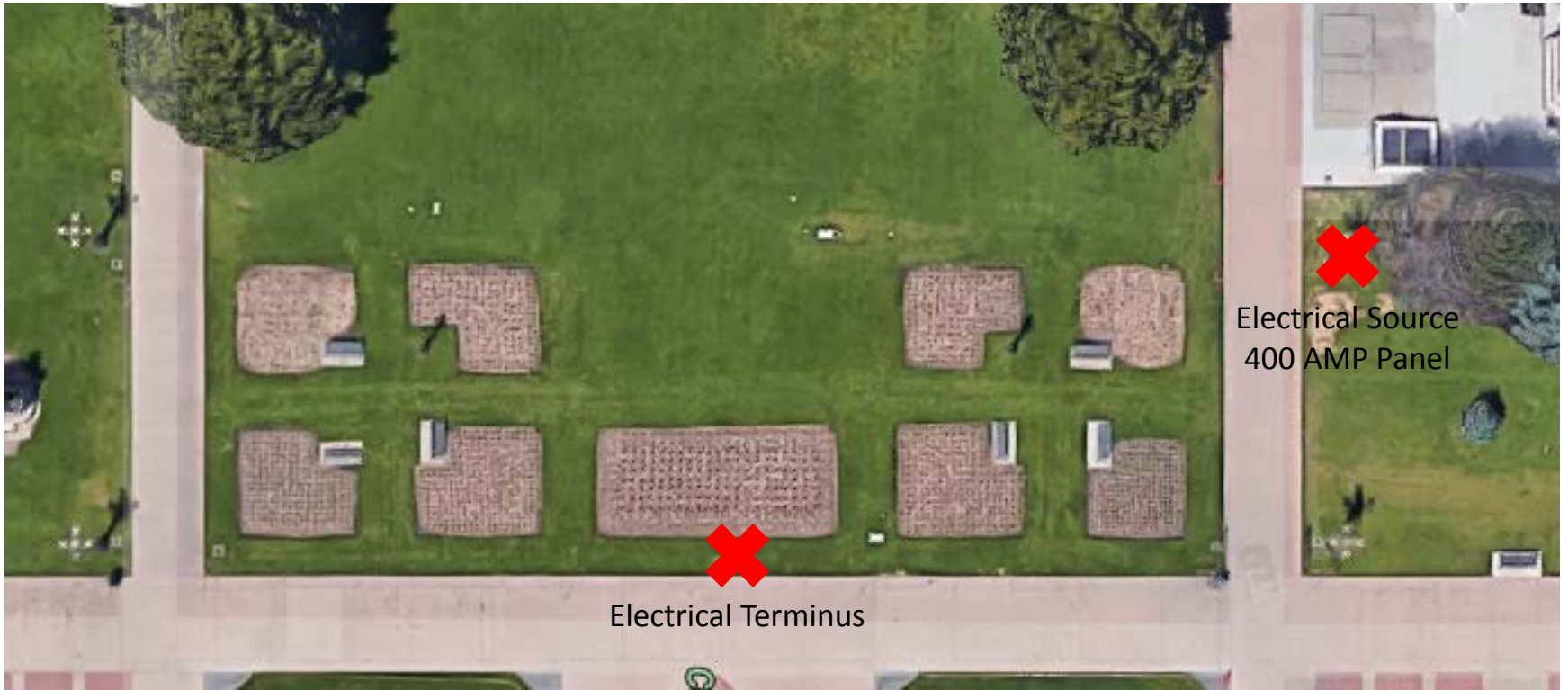
Witness my hand and official seal.

My commission expires: 7/26/2020

**CARRIE LYNNE STEWART**  
NOTARY PUBLIC  
STATE OF COLORADO  
Notary ID 20044026048  
My Commission Expires 07/26/2020

[Signature]  
Notary Public  
Address 10790 Rustic Redwood Ct  
Highland Springs CO 80226

Exhibit B



Electrical Terminus

Electrical Source  
400 AMP Panel





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/2/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER License # 0757776 HUB International Insurance Services (COL) CONTACT NAME: PHONE (A/C, No, Ext): (303) 893-0300 FAX (A/C, No): (866) 243-0727 INSURER(S) AFFORDING COVERAGE INSURER A : Alliance of Nonprofits for Insurance, Risk Retention Group (ANI) 10023 INSURER B : Philadelphia Indemnity Insurance Company 18058 INSURER C : North American Elite Insurance Company 29700

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 INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes rows for Commercial General Liability, Automobile Liability, Umbrella Liab, and Workers Compensation.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) The City and County of Denver, its elected and appointed officials, employees and volunteers are listed as Additional Insured for their interest in General Liability, including a Waiver of Subrogation in favor of the City and County of Denver.

CERTIFICATE HOLDER City and County of Denver 201 West Colfax Ave. Denver, CO 80202 CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE [Signature]

**CITY AND COUNTY OF DENVER**

**PERFORMANCE AND PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned \_\_\_\_\_, a Colorado \_\_\_\_\_, and authorized to transact business in the State of Colorado, hereafter referred to as the "Contractor", and \_\_\_\_\_, a corporation organized and existing under and by virtue of the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Colorado, as Surety, are held and firmly bound unto the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, hereinafter referred to as the "City", in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_.00), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents;

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden Contractor has 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 and perform the Work identified under **CONTRACT NO.** \_\_\_\_\_, [PROJECT NAME] within 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 Statement of Work 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, Statement of Work, 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 Statement of Work;

PROVIDED FURTHER, that this Payment and Performance Bond shall remain in full force and effect from the effective date of the Contract stated hereinabove until one year (365 days) or the expiration date set forth on the Contract, whichever is shorter, plus ninety (90) days following the expiration date of the Contract stated hereinabove. The Contractor shall be responsible for renewing or replacing this Payment and Performance Bond no later than sixty (60) days prior to the date of expiration. Failure to renew or replace the Payment as specified shall be grounds for immediate termination of the Contract, as the discretion of the City. Valid claim(s) under this Payment and Performance Bond existing prior to the date of expiration shall be paid by Surety provided that the City submits its claim(s) within sixty (60) days following the date of expiration; and

PROVIDED FURTHER, that the Surety shall have the right to terminate its liability upon providing the City with sixty (60) days prior notice by registered mail of the Surety's intention to so terminate, but the Surety shall remain liable for all sums due under the Payment and Performance Bond up to and including the effective date of such termination or in the event the Surety should terminate the Payment and Performance Bond without the required notice to the City.

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
**Contractor**

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

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

\_\_\_\_\_  
**Surety**

By: \_\_\_\_\_  
Attorney-In-Fact

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

**APPROVED AS TO FORM:**

Attorney for the City and County of  
Denver

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

**Assistant City Attorney**

**APPROVED FOR THE CITY AND  
COUNTY OF DENVER**

By: \_\_\_\_\_  
**Michael B. Hancock  
MAYOR**

By: \_\_\_\_\_  
**EXEC. DIR. OF \_\_\_\_\_**