

## ON CALL MAINTENANCE AND REPAIR CONTRACT

**THIS ON CALL MAINTENANCE AND/OR REPAIR CONTRACT (“Agreement”)** is by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **JCOR MECHANICAL, INC.**, a Colorado corporation, whose address is 15800 West 5<sup>th</sup> Avenue, Golden, Colorado, 80401 (the “Contractor”).

### RECITALS

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

**WHEREAS**, the work shall consist of the routine (not Emergency) maintenance and repair of plumbing systems at multiple locations throughout the City and County of Denver. The work may include but is not limited to, small and medium initial installation, repair and/or replacement of existing fixtures, drain, waste, water lines, and other plumbing related services. Work may include maintenance or replacement of other plumbing fixtures (toilets, sinks, showers, traps, shut-offs, vents), and other similar work. Work will also include backflow testing and repair and/or replacement of backflow systems as deemed necessary by the City.

**WHEREAS**, Standard Work hours are considered Monday through Friday 7:00 A.M to 3:30 P.M. Non-standard work hours are 3:30 P.M. to 7:00 A.M. Monday through Friday, Weekends, and City of Denver Holidays. described in *Exhibit A* (the “Scope of Work”), and as further defined in each specific Work Order assigned hereunder (the “Work Order”).

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

### AGREEMENT

The recitals set forth above are incorporated herein as set forth in their entirety. In consideration of the mutual covenants contained in this Agreement, and subject to the terms and conditions stated in this Agreement, the Parties agree as follows:

**1. WORK TO BE PERFORMED.**

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

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

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

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

E. **Work Order Notice :** As the Department determines the need and availability of funding for each Work Project, the City will issue a written Work Order to the Contractor detailing the nature and extent of services to be provided, the location of the Work Project, and the timeframes within

the Work Project is to be performed, with a projected amount to be paid to the Contractor (the “Work Project Amount”) based on the Work items described in the Statement of Work and Technical Specifications in *Exhibit A* and the Rate Sheet set forth in *Exhibit B*, which is attached to this Agreement and incorporated herein by reference. The Contractor acknowledges and affirms that the City may rely upon *Exhibit C* in the preparation of Work Order as provided herein. The Contractor shall, within forty-eight (48) hours and in good faith, confirm the scope of services detailed therein and the associated Work Project Amount, all of which must be in accordance with the terms and conditions of this Agreement, and respond back in writing to the Department as to the Contractor’s ability to initiate and complete the Work Project in the timeframes specified in the Task Notice. The Contractor assumes all responsibility and risks, including any additional work or additional costs, for failure to confirm the completeness and accuracy of the Task Notice and the Work Project Amount. Confirmation includes, but is not restricted to, inspections of the Work Project site and inquiries with the Department as to any directions or specifications in the Work Order which are not clear. Upon the Contractor confirming the Work Order Notice, with or without changes or corrections, the Department will notify the Contractor to proceed on the assigned Work Project and acknowledging or denying any corrections or changes to the Work Order Notice or Work Project Amount requested by the Contractor.

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

G. **Inspection of the Work:** Persons who are employees of the City or who are under contract to the City will be assigned to inspect and test the Work. These persons may perform any tests and observe the Work to determine whether or not materials used, manufacturing and construction processes and methods applied, and equipment installed satisfy the requirements of the technical specifications, all other Agreement requirements, and the Contractor's warranties and guarantees. The Contractor shall permit these inspectors unlimited access to the Work and provide means of safe access to the Work, which cost shall be included in the Contractor’s price for the Work. In addition, the Contractor

shall provide whatever access and means of access are needed to off-site facilities used to store or manufacture materials and equipment to be incorporated into the Work and shall respond to any other reasonable request to further the inspector's ability to observe or complete any tests. Such inspections shall not relieve the Contractor of any of its quality control responsibilities or any other obligations under the Agreement. All inspections and all tests conducted by the City are for the convenience and benefit of the City. These inspections and tests do not constitute acceptance of the materials or Work tested or inspected, and the City may reject or accept any Work or materials at any time prior to the inspections, whether or not previous inspections or tests were conducted by the inspector or a City representative.

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

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

**J. Completion; Deficiency:** The Contractor shall promptly notify the Project Manager as to the completion of the Work so that inspection of the Work may be made by the City. If a Completion Notice is specified in the Work Order, the Contractor shall not submit a request for payment for the Work performed until a Completion Notice is issued by the Director or ten (10) calendar days after City is notified of Work completion, whichever is sooner. If the Work performed is determined by the

Director to be defective, deficient or incomplete, whether or not a Completion Notice is required, the Contractor shall correct or complete the Work, at no additional cost to the City, within the timeframe specified in a Notice of Deficiency issued by the Manager, and promptly notify the Manager upon correction or completion of the Work.

**K. Time is of the Essence:** The Work is time sensitive. The Contractor acknowledges and affirms that it is imperative that the Contractor exercise due diligence and actively and expeditiously undertake all measures necessary: 1) in initiating, making good progress, and completing the Work Project, all within the timeframes specified in this Agreement and applicable Work Order, and 2) in promptly and fully correcting or completing any Work noted in a Notice of Deficiency. Failure or refusal by the Contractor to initiate, make good progress, or complete the Work within the Performance Period may result, at the discretion of the Manager, in termination of this Agreement, or in assessment of liquidated damages under Section 5 of this Agreement.

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

## **2. METHODS OF WORK.**

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

**B. Permits and Licenses:** Any tasks specified under this Agreement that require the employment of licensed or registered personnel shall be performed by licensed or registered personnel. The Contractor shall obtain, at its own expense, and maintain all permits or licenses, including any

prescribed governmental authorizations or approvals, required for the performance of the Work and shall demonstrate, if requested, what actions the Contractor has taken to comply with the required permits, licenses, authorizations or approvals.

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

D. **Protection of Property:** The Contractor shall assume full responsibility and expense for the protection of all public and private property, including but not limited to structures, street improvements, pathways, irrigation systems, landscaping, water lines, sewers, and other utilities, both above and below ground, at or near the site or sites of the Work or at any other location affected by the prosecution of the Work or the transportation or utilization of workers, equipment, or materials in connection with the Work. The Contractor shall provide, in a timely manner and in advance, written notice to: 1) the City department having charge of any property, right of way, or utility affected by the Work; 2) any utility having charge of any utility affected by the Work; and 3) any private property owner whose property or improvements will be affected by the Work, and shall make all necessary arrangements with such City department, utility, or private property owner for the removal and replacement or the protection of such property. The Contractor shall arrange and obtain any utility locations required by law or necessary to protect utilities or underground facilities on public or private property and shall be liable for any failure to obtain or comply with such utility locations. To the extent that any permit or license is required by a City department or other governmental entity for any work on public property, said permit or license shall be obtained and paid for by the Contractor in advance of performing the Work and shall be complied with in the performance of the Work. If the Contractor or its employees, agents, or subcontractors destroy or damage any property, public or private, the Contractor shall promptly repair or replace such property, to the reasonable satisfaction of the Department, before the City will accept or pay for the Work performed. If the Contractor fails to make such repairs or replacement, the Manager may, at the Manager's discretion, undertake such repair or replacement and deduct the cost of the same from amounts payable to the Contractor under this Agreement.

E. **Safety:** The Contractor is responsible for the health and safety of every person on or at the Work site and shall take all necessary and appropriate precautions and actions to protect such persons from injury, death or loss. The Contractor shall be responsible for being fully familiar with and

complying with all applicable City, state or federal laws, ordinances, rules and regulations, requirements and guidelines, including the Occupational Safety and Health Act and any regulations or directives adopted thereunder (“Safety Laws”). The Contractor shall promptly notify the City in writing of any violations of said Safety Laws, along with copies of any injury reports, and any citations, orders, or warnings issued by governmental agencies in the enforcement of said Safety Laws. The Contractor shall provide and properly locate all necessary protective devices and safety precautions, including warning signs, barricades, or other devices or precautions as required by Safety Laws or the City. For all operations requiring the placement and movement of equipment or materials, the Contractor shall observe and exercise, and shall direct its employees or agents to observe and exercise, all appropriate and prudent caution so as to avoid injury to persons or damage to property and to minimize annoyance to or undue interference with the movement of the public and the performance of City functions. All ladders, scaffolding, or other devices used to reach objects not otherwise accessible, shall be of sound construction, firm and stable and shall be maintained in good, operable condition. All such equipment shall be moved, placed, shifted, and removed from work areas in such a manner as to provide maximum safety to persons and property and cause the least possible interference with the normal usage of such areas by the public and City personnel.

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

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

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

**I. Liens and Other Encumbrances:** The Contractor shall not permit any mechanic's or materialman's liens or any other liens to be imposed and remain for more than ninety (90) days upon any City-owned property, or any part thereof, by reason of any worker labor performed or materials or equipment furnished by any person or legal entity to or on behalf of the Contractor, either pursuant to C.R.S. § 38-26-107 or by any other authority. The Contractor shall promptly pay when due all bills, debts and obligations incurred in connection with this Agreement and shall not permit the same to become delinquent. The Contractor shall not permit any lien, mortgage, judgment, execution or adjudication of bankruptcy which will in any way impair the rights of the City under this Agreement. The Contractor will indemnify and save harmless the City for the extent of any and all payments, interests, and penalties resulting from failure to comply with this section. The Contractor's obligations set out in this section shall survive the termination of this Agreement.

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

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



services on an hourly basis, the Contractor agrees a reasonable fee shall be computed at the rate of two hundred dollars per hour of City Attorney time.

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

3. **TERM.** The term of this Agreement will commence upon December 1, 2018 and will continue until through November 30, 2019 (the "Term"). The Contractor agrees to comply with all applicable Contract close-out procedures and requirements set forth in the Agreement and as otherwise directed by the Manager.

4. **COMPENSATION AND PAYMENT.**

A. **Maximum Contract Amount:** Each Project will be assigned and authorized separately by Work Order and the maximum liability of the City for any one Work Order shall not exceed the sum of **EIGHT HUNDRED FIFTY THOUSAND AND NO/100 Dollars (\$850,000.00)**, including all authorized Work Order changes. The Maximum Contract Amount to be paid by the City to the Contractor for satisfactory completion of all Work Orders authorized by the City and performed by the Contractor under this Agreement shall in no event exceed the sum of **EIGHT HUNDRED FIFTY THOUSAND NO/100 DOLLARS (\$850,000.00)**, unless this Agreement is modified to increase said amount by a duly authorized and written amendment to this Agreement executed by the Parties in the same manner as this Agreement. The Maximum Contract Amount stated herein is not intended, and shall not be construed, as a promise or guarantee to the Contractor that the final price payable to the Contractor for all of the authorized Work will equal the Maximum Contract Amount.

B. **Conditions of Payment:** Payment shall be made upon satisfactory completion of the Work in accordance with the Work Order issued and this Agreement. A properly issued and signed final receipt and lien waiver shall be a condition precedent to any obligation for the City to make final payment for Work performed by the Contractor. The request for payment submitted by the Contractor must fully document and itemize the Work rendered and all equipment, supplies, materials, labor, and other authorized and actually incurred costs. The request for payment shall affirmatively represent that: i) all of the Work specified in the Work Order has been fully performed and completed and any Deficiency Notice has been satisfied; ii) no claims, liens, or amounts owed to employees, suppliers, or materialmen are outstanding and all requirements and conditions of section 13 below have been fully complied with;

iii) all rights, title and interests to the materials or improvements provided or installed as the result of the Work have transferred to the City; and iv) no interest or encumbrance of any kind associated with the Work will be asserted, has been acquired, or will be made by the Contractor or any other person or entity. If the request for payment does not contain these representations, the representations are hereby deemed to contain them. The request for payment must be approved by the Manager in writing in order to be eligible for compensation under this Contract. Any payment may be reduced by any liquidated damages assessed by the Manager under sub-section 5.D.2 below.

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

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

## 5. TERMINATION & REMEDIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Compensation. Upon termination of Agreement by the City, with cause, under sub-section 5.B above, the Contractor shall be compensated for the Work that the Manager determines to have been satisfactorily completed, except that the City shall be entitled to keep any unpaid amount owing to the Contractor to the extent that said amount or some portion of said amount is needed to compensate the City for: 1) liquidated damages, if specified under sub-section 5.E below; 2) the costs of releasing any liens or satisfying any claims related to the Contractor's Work; and 3) the costs of paying a new contractor for those services necessary to complete or rectify the Contractor's Work or to repair or replace any damaged or lost property caused by the Breach of Agreement. The Contractor shall have no claim of any kind whatsoever against the City for any termination with cause, except for compensation for the Work satisfactorily performed as described herein.

D. Remedies.

1) *Termination*: For any termination with cause of Agreement, the City shall have the right to any or all of the following remedies through the courts or other means of legal recourse available to the City: a) cancellation of the Contract; b) actual damages or costs caused by Breach of the Contractor; and c) recovery of costs incurred by the City itself in paying for the release of liens related to the Contractor's Work or in completing or rectifying the Contractor's Work or in retaining and compensating another contractor to complete or rectify the Contractor's Work, to the extent not covered in sub-section 5.C. above. In any legal action brought by the Contractor, the Contractor shall not be entitled to recover any more than the full amount, not previously paid, of any Work Orders executed with and performed in whole or part by the Contractor. The City and the Contractor understand and agree that

the rights of specific performance and to incidental, consequential, or punitive damages have been hereby expressly waived and released by both Parties.

2) *Liquidated Damages*: If the Manager determines, for a Breach of Agreement under sub-section 5.B above, not to terminate the Contract but to apply liquidated damages as provided in this paragraph, the Contractor shall be liable to the City for liquidated damages in the amount of one hundred dollars (\$100.00) per day, calculated from the day that the Manager issues notice to the Contractor of a Breach under sub-section 5.B through a) the day before the Breach is remedied, or b) the day before a new Work Order or Contract is executed with another contractor to perform the Work, as so determined by the Manager. The Contractor and City hereby acknowledges and agrees that it would be impractical and extremely difficult to estimate the damages which the City might incur for said breach, and that, in the interest of assuring that the Work is timely and properly performed, the liquidated damages provided herein is the most fair and reasonable way to compensate the City for any delay or inadequate performance without termination of the Contract or litigation.

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

7. **INDEPENDENT CONTRACTOR.** The Contractor is an independent contractor retained to perform services for limited periods of time. Neither the Contractor nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever. The Contractor is responsible for the operational management, errors and omissions of the Contractor's employees, agents, and subcontractors. Without limiting the foregoing, the Contractor understands and acknowledges that the Contractor and the Contractor's employees, agents and subcontractors: a) are not entitled to workers' compensation benefits through the City; b) are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Contractor or some other entity besides the City; and c) are obligated to pay federal and state taxes on any monies earned pursuant to Agreement. Furthermore, it is understood and agreed that nothing in Agreement is intended, or shall be construed, to constitute a joint venture between the Parties.

8. **INSURANCE.**

A. **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 above-described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, 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.

B. **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 E**, 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.

C. **Additional Insureds:** For Commercial General Liability, Auto Liability Professional Liability, and Excess Liability/Umbrella (if required) Contractor and subcontractor’s

insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

**D. Waiver of Subrogation:** For all coverages required under this Agreement, Contractor'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 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.

**F. Workers' Compensation/Employer's Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into 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.

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

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

**I. Additional Provisions:**

- (i) For Commercial General Liability, 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 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.

(ii) For claims-made coverage:

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

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

**9. DEFENSE AND INDEMNIFICATION.**

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

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

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



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

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

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

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

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

14. **EXAMINATION OF RECORDS.** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of the Contractor, involving transactions related to the Agreement until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations.

15. **ASSIGNMENT; SUBCONTRACTING.** The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Executive Director's prior written consent. Any assignment or

subcontracting without such consent will be ineffective and void, and will be cause for termination of this Agreement by the City. The Executive Director has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-consultant, subcontractor or assign.

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

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

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

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

**20. CONFLICT OF INTEREST.**

**A.** No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Contractor shall not hire, or contract for services

with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

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

**21. NOTICES.** All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Contractor at the address first above written, and if to the City at:

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

And by the City to: JCOR Mechanical, Inc.  
15800 West 5<sup>th</sup> Avenue  
Golden, CO 80401

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

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

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

**24. NO DISCRIMINATION IN EMPLOYMENT.** In connection with the performance of work under Agreement, 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 variance or gender identity, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

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

**26. 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 D* and incorporated herein by reference.

B. Date bid or request for qualifications/proposals was advertised August 24, 2018.

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

C. 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.

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

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

F. Contractor shall prominently post at the work site the current prevailing wage and fringe benefit rates. The posting must inform workers that any complaints regarding the payment of prevailing wages or fringe benefits may be submitted to the Denver Auditor by calling 720-913-5000 or emailing auditor@denvergov.org.

G. If 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.

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

**28. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT.**

**A.** 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”).

**B.** The Contractor certifies that:

**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.

**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.

**C.** The Contractor also agrees and represents that:

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

**2)** It shall not enter into a contract with a subconsultant or 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.

**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 the E-Verify Program.

**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 it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

**5)** If it obtains actual knowledge that a 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 shall also 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.

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

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

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

30. **CONTRACT DOCUMENTS; ORDER OF PRECEDENCE.** Agreement consists of sections 1 through 35 which precede the signature page(s) (“Contract Text”), and the following exhibits and attachments which are incorporated herein and made a part hereof by reference:

- Exhibit A Statement of Work and General Conditions
- Exhibit B Rate Sheet
- Exhibit C Work Order Form
- Exhibit D Prevailing Wage Rate Schedules
- Exhibit E Insurance Certificate

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

- Contract Text
- Exhibit A
- Exhibit B

Exhibit C

Exhibit D

Exhibit E

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

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

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

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

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

**36. 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.

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

**ATTACHED EXHIBITS**

- Exhibit A Statement of Work and General Conditions
- Exhibit B Rate Sheet
- Exhibit C Work Order Form
- Exhibit D Prevailing Wage Rate Schedules
- Exhibit E Insurance Certificate

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**Contract Control Number:**

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

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** GENRL-201842652-00

**Contractor Name:** JCOR Mechanical Inc.

By: Jacque Overstreet

Name: Jacque Overstreet  
(please print)

Title: President  
(please print)

**ATTEST: [if required]**

By: Terry Woldridge

Name: Terry Woldridge  
(please print)

Title: Corporate Secretary  
(please print)



## **EXHIBIT A**

### **SCOPE OF WORK, TECHNICAL REQUIREMENTS AND GENERAL CONDITIONS**

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

The City requires the routine (not Emergency) maintenance and repair of plumbing systems at multiple locations throughout the City and County of Denver. The work may include but is not limited to, small and medium initial installation, repair and/or replacement of existing fixtures, drain, waste, water lines, and other plumbing related services. Work may include maintenance or replacement of other plumbing fixtures (toilets, sinks, showers, traps, shut-offs, vents), and other similar work. Work will also include backflow testing and repair and/or replacement of backflow systems as deemed necessary by the City.

Standard Work hours are considered Monday through Friday 7:00 A.M. to 5:00 P.M. Non-standard work hours are 5:00 P.M. to 7:00 A.M. Monday through Friday, Weekends and City of Denver holidays.

#### **INVOICING REQUIREMENTS:**

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

- Invoice number
- Invoice date
- Service date(s) or service period
- PO number (will be provided to contractor when assigned)
- Service location (Building name and address)
- Facility Code (list will be provided to the contractor)
- Itemized charges, including unit of measurement
- Total charge

Vendor shall also provide monthly statement billing (as required).

#### **TECHNICAL REQUIREMENTS:**

When called for service, vendor will first determine the number of workers and the type of equipment, and supplies required and visit the site within two (2) business days to inspect and provide a “not-to-exceed” quotation. The contractor will only be paid for the number of workers authorized by the City. The vendor will commence work as soon as practical specifically authorized by the City’s agency, and no payment will be made by the City for work not authorized. The City may continue to work, or if in the City’s best interest, it may continue the service under other procurements.

The vendor will not commence work until a purchase order is received from City Purchasing.

**No project under this contract may exceed \$25,000 without express permission from the Executive Director of General Services or the Director of Facilities Management.**

Vendor will notify the General Services Contract Administrator when and if total expenditures reach \$600,000 and when and if the reach \$750,000. Failure to comply may result in no payment or termination.

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

"Journeyman" is defined for purposes of this agreement as a tradesman, craftsman or technician, skilled in the service performed, who is regularly paid at least the prevailing wage for the trade, and who has a minimum of five years of experience or certification of completion of a bona fide apprenticeship program for the trade, fully competent to do the work, and may apply at any gender. Vendors with apprentices who are registered with (BAT) the Bureau of Apprenticeship & Training may use those rates to calculate their quoted hourly rate. Note that BAT limits the ratio of apprentice to journeyman to a 1 to 1 ratio.

Bidders must be licensed/registered (as required) by the building inspection division of the City and County of Denver for the items bid. Contractor will include copy of current license/registration bid.

**In the event friable asbestos or other hazardous material is encountered, contractor shall notify the City and the City will be responsible for abatement.**

**F.O.B POINT:** All prices quoted must be quoted at a firm price F.O.B Denver, Colorado, delivered to various City owned or operated buildings as needed, unloaded and installed.

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

Restricted Locations include but are not limited to:

- Denver Police Administration Building
- Denver County Jail
- Denver City Jail
- Denver International Airport

**EMERGENCY PURCHASES:** The City and County of Denver has in place an Emergency Plumbing repair services contract. This solicitation will cover any plumbing services **NOT**

covered under the Emergency Contract listed. This solicitation is primarily for routine maintenance and repair.

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

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

**CONSTRUCTION AND REMODELING CONTRACTING PROVISIONS:** Vendor shall be responsible for obtaining any and all permits (including the cost thereof) required to perform this installation. The installation shall be in complete compliance with City of Denver Building and Fire Codes.

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

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

**METHODS OF OPERATION:** Construction work started by the vendor on any unit of his/her contract must be continuously and actively prosecuted with an optimum complement of workmen and equipment to expedite completion in the shortest possible time. The Vendor shall organize to do this construction eight hours per day from Monday to Friday inclusive in each week, excluding legal holidays.

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

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

**OSHA GUIDELINES:** The vendor shall be familiar with and operate within the guidelines as set forth by the Occupational Safety and Health Act.

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

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

**VENDOR'S PERFORMANCE:** Vendor shall furnish all necessary labor, tools, equipment and supplies to perform the required services at the City facilities designated. If, in the opinion of the Manager of General Services or his/her authorized representative, performance becomes unsatisfactory, the City shall notify the vendor.

The vendor will have four (4) business days from the time to correct any specific instances of unsatisfactory performance. In the event the unsatisfactory performance is not corrected within the time specified above, the City shall have the immediate right to complete the work to its satisfaction and shall deduct the cost to cover from any balances due or to become due the vendor. Repeated incidences of unsatisfactory performance will result in cancellation of the agreement for default.

**GENERAL CONDITIONS:**

1. With respect to Performance Standards and Technical Requirements, Work started by the contractor must be continuously and actively prosecuted with an optimum complement of workmen and equipment to expedite completion in the shortest possible time.

2. Contractor shall provide all maintenance service with the level of service in accordance with practices recommended by the manufacturer of each item of equipment as well as generally accepted industry practices, notwithstanding any failure by the City to include the type of service in the specifications.
3. Repair or replacement parts for existing equipment shall be accomplished by the contractor using original equipment manufacturer's (OEM) parts. If OEM equipment is not available, parts or equipment furnished must equal or exceed that of the original equipment manufacturer(s) and be approved by the Director of Facilities Management or his designee.
4. The Pricing section of this Contract includes all requirements set forth in the General Conditions herein, as well as any other items pertinent to your contractor's pricing such as additional discounts for increased quantities, etc.
5. The Net Hourly rates are all inclusive and billed for on-site time only. Separate "trip charges" and "travel time" will not be paid by the City, although these costs may be used to determine Contractor's quoted hourly rate for each category.
6. All Materials left over from a job but charged to the City and all equipment or materials removed from the City's facilities shall remain the property of the City unless released by the City's representative as unsalvageable waste. Waste from the job shall be removed from the City's premises and disposed of properly by the Contractor.
7. Bids for various projects will be solicited by and will be submitted to the Assistant Director of Facilities and include: detailed price schedule, projected work timeline, anticipated start date, and any subcontractors or suppliers. The quotes will detail the number of hours for each type of worker, based on the hourly rates bid in the RFP. Additionally, materials, equipment and all aspects of the job will be broken out and bid as requested. Markup on supplies, materials, equipment, subcontractors and any other incidentals, shall be limited to 5%.
8. Some City facilities require background investigations before contractor employees can begin work.



## EXHIBIT B

### RATES:

Prevailing wage rate will adjust on, and only on, the anniversary of the date of 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.

**Item No. 1: Plumbing, Journeyman, Standard Business Hours**

Standard Hours are defined as 8 am-5pm (or standard workday hours as defined by vendor, i.e. 7 am-3:30 pm) Monday through Friday.

Prevailing Wage Used for Standard Hours	\$51.42 per hour
Labor Markup per hour (Standard Hours)	\$36.00 per hour
Total Labor Charged to the City	\$87.42 per hour
Materials Markup	15%

\*Apprentice hourly rate is determined by the Prevailing Wage Auditor on a case by case basis and the Labor Markup per hour shall apply to the actual determined rate plus \$36.00/hour.

**Item No. 2: Plumbing, Journeyman, Non-Standard Business Hours**

**Non-standard hours are defined as outside normal business hours of the 8am-5pm (or standard workday hours as defined by vendor, i.e. 7am-3:30 pm) Monday through Friday or the employees 41<sup>st</sup> hour on the job for the week.**

Prevailing Wage Used for Standard Hours	\$69.16 per hour
Labor Markup per hour (Standard Hours)	\$58.00 per hour
Total Labor Charged to the City	\$127.16 per hour
Materials Markup	15%

\*Apprentice hourly rate is determined by the Prevailing Wage Auditor on a case by case basis and the Labor Markup per hour shall apply to the actual determined rate plus \$58.00/hour.

### GENERAL CONDITIONS

1. With respect to Performance Standards and Technical Requirements, Work started by the contractor must be continuously and actively prosecuted with an optimum complement of workmen and equipment to expedite completion in the shortest possible time.
2. All work shall be accomplished by workers proficient and experienced in the trades required and in an orderly and responsible manner in accordance with recognized standards and the plans and specifications.
3. Contractor shall provide all maintenance service with the level of service in accordance with practices recommended by the manufacturer of each item of equipment as well as generally

accepted industry practices, notwithstanding any failure by the City to include the type of service in the specifications.

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

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

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

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

8. Repair or replacement parts for existing equipment shall be accomplished by the contractor using original equipment manufacturer's (OEM) parts. If OEM equipment is not available, parts or equipment furnished must equal or exceed that of the original equipment manufacturer(s) and be approved by the Director of Facilities Management or his designee.

9. The Pricing section of this Contract includes all requirements set forth in the General Conditions herein, as well as any other items pertinent to your contractor's pricing such as additional discounts for increased quantities, etc.

10. The Net Hourly rates are all inclusive and billed for on-site time only. Separate "trip charges" and "travel time" will not be paid by the City, although these costs may be used to determine Contractor's quoted hourly rate for each category.

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

12. "Journeyman" is defined as a tradesman, craftsman or technician, skilled in the service performed, who is regularly paid at least the prevailing wage for the trade, and who has a minimum of five years experience or certification of completion of a bona fide apprenticeship program for the trade, fully competent to do the work, and may apply to any gender and is licensed and registered with the State of Colorado Electrical Board. Proposers with apprentices who are registered with (BAT) the Bureau of Apprenticeship & Training (U.S. Department of Labor) may

use those rates to calculate their quoted hourly rate. Note that BAT limits the ratio of apprentice to journeyman to a 1 to 1 ratio.

13. Bids for various projects will be solicited by and will be submitted to the Assistant Director of Facilities and include: detailed price schedule, projected work timeline, anticipated start date, and any subcontractors or suppliers. The quotes will detail the number of hours for each type of worker, based on the hourly rates bid in the RFP. Additionally, materials, equipment and all aspects of the job will be broken out and bid as requested. Markup on supplies, materials, equipment, subcontractors and any other incidentals, shall be limited to 5%.

14. Some City facilities require background investigations before contractor employees can begin work.

## EXHIBIT D

Office of Human Resources

201 W. Colfax, Department 412

Denver, CO 80202

p: 720.913.5751

f: 720.913.5720

[www.denvergov.org/humanresources](http://www.denvergov.org/humanresources)



**DENVER**  
THE MILE HIGH CITY

TO: All Users of the City of Denver Prevailing Wage Schedules

FROM: Susan Keller, Human Resources Technician, Classification & Compensation

DATE: Tuesday, September 4, 2018

SUBJECT: Latest Change to Prevailing Wage Schedules

Please be advised, prevailing wage rates for some building, heavy, highway, and residential 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 in accordance with the Davis-Bacon Act.

The attached Prevailing Wage Schedule is effective as of **Friday, August 31, 2018** 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. CO180030  
Superseded General Decision No. CO20170030  
Modification No. 5  
Publication Date: 08/31/2018  
(5 pages)

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

Attachments as listed above.

# EXHIBIT C

General Decision Number: CO180030 08/31/2018 CO30

Superseded General Decision Number: CO20170030

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 \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any 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 \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/05/2018
1	01/12/2018
2	03/02/2018
3	07/13/2018
4	08/03/2018
5	08/31/2018

ASBE0028-002 07/01/2018

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation).....	\$ 31.73	14.23
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CARP0055-002 05/01/2018

	Rates	Fringes
CARPENTER (Drywall Hanging Only).....	\$ 28.45	10.14
-----		

CARP1607-001 06/01/2018

## EXHIBIT C

	Rates	Fringes
MILLWRIGHT.....	\$ 31.38	15.63

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 ELEC0068-012 06/01/2018

	Rates	Fringes
ELECTRICIAN (Includes Low Voltage Wiring).....	\$ 35.80	15.45

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 ELEV0025-001 01/01/2018

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 43.66	32.645

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.

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 ENGI0009-017 05/01/2017

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Crane)		
141 tons and over.....	\$ 29.82	10.10
50 tons and under.....	\$ 27.75	10.10
51 to 90 tons.....	\$ 27.92	10.10
91 to 140 tons.....	\$ 28.55	10.10

-----  
 \* IRON0024-009 06/01/2018

	Rates	Fringes
IRONWORKER, ORNAMENTAL.....	\$ 27.45	12.34

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 \* IRON0024-010 06/01/2018

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 27.45	12.34

-----  
 PAIN0079-006 08/01/2017

	Rates	Fringes
PAINTER (Brush, Roller and Spray; Excludes Drywall Finishing/Taping).....	\$ 20.50	8.41

## EXHIBIT C

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PAIN0079-007 08/01/2017		
	Rates	Fringes
DRYWALL FINISHER/TAPER.....	\$ 21.20	8.41
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PAIN0419-001 07/01/2016		
	Rates	Fringes
SOFT FLOOR LAYER (Vinyl and Carpet).....	\$ 20.00	10.83
-----		
* PAIN0930-002 07/01/2018		
	Rates	Fringes
GLAZIER.....	\$ 31.52	10.13
-----		
PLUM0003-009 06/01/2018		
	Rates	Fringes
PLUMBER (Excludes HVAC Duct, Pipe and Unit Installation).....	\$ 35.48	15.94
-----		
PLUM0208-008 06/01/2018		
	Rates	Fringes
PIPEFITTER (Includes HVAC Pipe and Unit Installation; Excludes HVAC Duct Installation).....	\$ 37.55	14.95
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SFCO0669-002 04/01/2017		
	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 36.73	20.47
-----		
SHEE0009-004 07/01/2018		
	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct Installation; Excludes HVAC Pipe and Unit Installation).....	\$ 34.02	17.49
-----		
SUCO2013-006 07/31/2015		
	Rates	Fringes
BRICKLAYER.....	\$ 21.96	0.00

## EXHIBIT C

CARPENTER (Acoustical Ceiling Installation Only).....	\$ 22.40	4.85
CARPENTER (Metal Stud Installation Only).....	\$ 17.68	0.00
CARPENTER, Excludes Acoustical Ceiling Installation, Drywall Hanging, and Metal Stud Installation.....	\$ 21.09	6.31
CEMENT MASON/CONCRETE FINISHER...	\$ 20.09	7.03
LABORER: Common or General.....	\$ 14.49	5.22
LABORER: Mason Tender - Brick...	\$ 15.99	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 16.00	0.00
LABORER: Pipelayer.....	\$ 16.96	3.68
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 20.78	5.78
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 19.10	3.89
OPERATOR: Grader/Blade.....	\$ 21.50	0.00
ROOFER.....	\$ 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.



EXHIBIT C

**Office of Human Resources**  
**Supplemental rates**  
**(Specific to the Denver projects)**  
**Revision Date: 11-28-2016**

<b><u>Classification</u></b>		<b><u>Base</u></b>	<b><u>Fringe</u></b>
Boilermaker		\$30.97	\$21.45
Iron Worker, Reinforcing		\$18.49	\$3.87
Laborer: Concrete Saw		\$13.89	-
Paper Hanger		\$20.15	\$6.91
Plasterer		\$24.60	\$12.11
Plaster Tender		\$10.79	-
Power Equipment Operator	Concrete Mixer - Less than 1 yd	\$23.67	\$10.67
	Concrete Mixer - 1 yd and over	\$23.82	\$10.68
	Drillers	\$23.97	\$10.70
	Loader - up to and incl 6 cu yd	\$23.67	\$10.67
	Loaders - over 6 cu yd	\$23.82	\$10.68
	Mechanic	\$18.48	-
	Motor Grader	\$23.97	\$10.70
	Oilers	\$22.97	\$10.70
	Roller	\$23.67	\$10.67
Tile Finisher		\$20.87	\$8.42
Tile Setter		\$26.83	\$8.48
Truck Driver	Flatbed	\$19.14	\$10.07
	Semi	\$19.48	\$10.11

Go to [www.denvergov.org/Auditor](http://www.denvergov.org/Auditor) to view the Prevailing Wage Clarification Document for a list of complete classifications used.

## EXHIBIT D

Office of Human Resources

201 W. Colfax, Department 412

Denver, CO 80202

p: 720.913.5751

f: 720.913.5720

[www.denvergov.org/humanresources](http://www.denvergov.org/humanresources)



**DENVER**  
THE MILE HIGH CITY

TO: All Users of the City of Denver Prevailing Wage Schedules

FROM: Susan Keller, Human Resources Technician, Classification & Compensation

DATE: Tuesday, September 4, 2018

SUBJECT: Latest Change to Prevailing Wage Schedules

Please be advised, prevailing wage rates for some building, heavy, highway, and residential 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 in accordance with the Davis-Bacon Act.

The effective date for this publication will be **Friday, August 31, 2018** and applies to the City and County of Denver for **HEAVY CONSTRUCTION PROJECTS** in accordance with the Denver Revised Municipal Code, Section 20-76(c).

General Wage Decision No. CO180012  
Superseded General Decision No. CO20170012  
Modification No. 7  
Publication Date: 08/31/2018  
(6 pages)

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

Attachments as listed above.

EXHIBIT C

General Decision Number: CO180012 08/31/2018 CO12

Superseded General Decision Number: CO20170012

State: Colorado

Construction Type: Heavy

Counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo and Weld Counties in Colorado.

HEAVY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any 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 \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/05/2018
1	01/12/2018
2	02/02/2018
3	02/09/2018
4	03/02/2018
5	07/13/2018
6	08/03/2018
7	08/31/2018

ASBE0028-001 07/01/2018

	Rates	Fringes
Asbestos Workers/Insulator (Includes application of all insulating materials, protective coverings, coatings and finishings to all types of mechanical systems).....	\$ 31.73	14.23

BRCO0007-004 01/01/2018

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS, JEFFERSON AND WELD COUNTIES

Rates	Fringes
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EXHIBIT C

BRICKLAYER.....\$ 27.98 10.04

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 BRCO0007-006 05/01/2018

EL PASO AND PUEBLO COUNTIES

Rates Fringes

BRICKLAYER.....\$ 25.88 10.34

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 ELEC0012-004 01/01/2018

PUEBLO COUNTY

Rates Fringes

ELECTRICIAN

Electrical contract over  
 \$1,000,000.....\$ 27.95 11.40+3%  
 Electrical contract under  
 \$1,000,000.....\$ 24.85 11.40+3%

-----  
 ELEC0068-001 06/01/2018

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
 JEFFERSON, LARIMER, AND WELD COUNTIES

Rates Fringes

ELECTRICIAN.....\$ 35.80 15.45

-----  
 ELEC0111-001 09/01/2017

Rates Fringes

Line Construction:  
 Groundman.....\$ 25.68 25.25%+\$5.75  
 Line Equipment Operator.....\$ 31.35 25.25% + \$5.75  
 Lineman and Welder.....\$ 44.92 25.25%+\$5.75

-----  
 ELEC0113-002 06/01/2018

EL PASO COUNTY

Rates Fringes

ELECTRICIAN.....\$ 31.80 15.90

-----  
 ELEC0969-002 06/01/2015

MESA COUNTY

Rates Fringes

ELECTRICIAN.....\$ 24.00 7.92

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 ENGI0009-001 05/01/2017

Rates Fringes

Power equipment operators:

EXHIBIT C

Blade: Finish.....	\$ 27.92	10.10
Blade: Rough.....	\$ 27.60	10.10
Bulldozer.....	\$ 27.60	10.10
Cranes: 50 tons and under..	\$ 27.75	10.10
Cranes: 51 to 90 tons.....	\$ 27.92	10.10
Cranes: 91 to 140 tons.....	\$ 28.55	10.10
Cranes: 141 tons and over...	\$ 29.82	10.10
Forklift.....	\$ 27.22	10.10
Mechanic.....	\$ 28.08	10.10
Oiler.....	\$ 26.84	10.10
Scraper: Single bowl under 40 cubic yards.....	\$ 27.75	10.10
Scraper: Single bowl, including pups 40 cubic yards and over and tandem bowls.....	\$ 27.92	10.10
Trackhoe.....	\$ 27.75	10.10

-----  
\* IRON0024-003 06/01/2018

	Rates	Fringes
Ironworkers:.....	\$ 27.45	22.11
Structural		

-----  
LABO0086-001 05/01/2009

	Rates	Fringes
Laborers:		
Pipelayer.....	\$ 18.68	6.78

-----  
PLUM0003-005 06/01/2017

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
JEFFERSON, LARIMER AND WELD COUNTIES

	Rates	Fringes
PLUMBER.....	\$ 39.08	16.44

-----  
PLUM0058-002 07/01/2018

EL PASO COUNTY

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 37.25	14.85

-----  
PLUM0058-008 07/01/2018

PUEBLO COUNTY

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 37.25	14.85

-----  
PLUM0145-002 07/01/2016

MESA COUNTY

	Rates	Fringes
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EXHIBIT C

Plumbers and Pipefitters.....\$ 35.17 11.70

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 PLUM0208-004 06/01/2016

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
 JEFFERSON, LARIMER AND WELD COUNTIES

	Rates	Fringes
PIPEFITTER.....	\$ 37.10	16.62

-----  
 SHEE0009-002 07/01/2018

	Rates	Fringes
Sheet metal worker.....	\$ 34.02	17.49

-----  
 TEAM0455-002 07/01/2018

	Rates	Fringes
Truck drivers:		
Pickup.....	\$ 21.41	4.32
Tandem/Semi and Water.....	\$ 22.04	4.32

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 SUCO2001-006 12/20/2001

	Rates	Fringes
BOILERMAKER.....	\$ 17.60	
Carpenters:		
Form Building and Setting...	\$ 16.97	2.74
All Other Work.....	\$ 15.14	3.37
Cement Mason/Concrete Finisher...	\$ 17.31	2.85
IRONWORKER, REINFORCING.....	\$ 18.83	3.90
Laborers:		
Common.....	\$ 11.22	2.92
Flagger.....	\$ 8.91	3.80
Landscape.....	\$ 12.56	3.21
Painters:		
Brush, Roller & Spray.....	\$ 15.81	3.26
Power equipment operators:		
Backhoe.....	\$ 16.36	2.48
Front End Loader.....	\$ 17.24	3.23
Skid Loader.....	\$ 15.37	4.41

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

EXHIBIT C  
**Office of Human Resources**  
**Supplemental rates**  
**(Specific to the Denver Projects)**  
**(Supp #74, Date: 02-03-2012)**

<b>Classification</b>		<b>Base</b>	<b>Fringe</b>
Ironworker	Ornamental	\$24.80	\$10.03
Laborer	Group 1	\$18.18	\$8.27
	Group 2	\$21.59	\$8.61
Laborer (Janitor)	Janitor/Yardmen	\$17.68	\$8.22
Laborer (Asbestos)	Removal of Asbestos	\$21.03	\$8.55
Laborer (Tunnel)	Group 1	\$18.53	\$8.30
	Group 2	\$18.63	\$8.31
	Group 3	\$19.73	\$8.42
	Group 4	\$21.59	\$8.61
	Group 5	\$19.68	\$8.42
Line Construction	Lineman, Gas Fitter/Welder	\$36.88	\$9.55
	Line Eq Operator/Line Truck Crew	\$25.74	\$8.09
Millwright		\$28.00	\$10.00
Power Equipment Operator	Group 1	\$22.97	\$10.60
	Group 2	\$23.32	\$10.63
	Group 3	\$23.67	\$10.67
	Group 4	\$23.82	\$10.68
	Group 5	\$23.97	\$10.70
	Group 6	\$24.12	\$10.71
	Group 7	\$24.88	\$10.79
Power Equipment Operator (Tunnels above and below ground, shafts and raises):	Group 1	\$25.12	\$10.81
	Group 2	\$25.47	\$10.85
	Group 3	\$25.57	\$10.86
	Group 4	\$25.82	\$10.88
	Group 5	\$25.97	\$10.90
	Group 6	\$26.12	\$10.91
	Group 7	\$26.37	\$10.94
Truck Driver	Group 1	\$18.42	\$10.00
	Group 2	\$19.14	\$10.07
	Group 3	\$19.48	\$10.11
	Group 4	\$20.01	\$10.16
	Group 5	\$20.66	\$10.23
	Group 6	\$21.46	\$10.31

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

# EXHIBIT C

## GENERAL SERVICES ON-CALL CONTRACT WORK ORDER



Department of General Services  
201 W. Colfax Ave., Dept. 904 \* Denver, CO 80202  
Phone 720.865.8680  
[www.denvergov.org/generalservices](http://www.denvergov.org/generalservices)

Work Order Title & Description:

Agency Requestor:

On-Call Contract No.:

Submitting Agency:

Contractor Name:

Task Order:

Start Date:

Contract Phone Number:

Expected Completion Date:

Contractor Email:

Lump Sum Amount:

Fund/Cost Center/Spend Category:

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

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

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

### APPROVALS:

<hr/> <p>Requestor</p> <p>Date</p> <hr/> <p>Director of Facilities Management</p> <p>Date</p>	<p><b>USING AGENCY</b></p> <p>I hereby certify that funds are available that will be reserved to pay the Contractor in full for the work to be performed under this <b>WORK ORDER</b>.</p> <hr/> <p>By Using Agency Administrative or Budget Office</p> <p>Date</p>
---	---

NOTE: No persons shall authorize or perform any of the above until the Work Order has all signatures and has been distributed.

DISTRIBUTION: General Services - Contract Administration  
Email address: [GSContracts@denvergov.org](mailto:GSContracts@denvergov.org)





EXHIBIT E

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/28/2018

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

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

PRODUCER: Moody Insurance Agency, Inc. 8055 East Tufts Avenue, Suite 1000, Denver CO 80237
CONTACT NAME: Christine Walker, CISR, CRIS
PHONE (A/C, No, Ext): (303) 824-6600
FAX (A/C, No): (303) 370-0118
E-MAIL ADDRESS: christine.walker@moodyins.com
INSURER(S) AFFORDING COVERAGE: INSURER A: Union Insurance Co (NAIC # 25844), INSURER B: Pinnacol Assurance (NAIC # 41190), INSURER C, D, E, F

COVERAGES CERTIFICATE NUMBER: 18/19 Master COI 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. Rows include Commercial General Liability, Automobile Liability, Umbrella Liability, and Workers Compensation and Employers' Liability.

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

CERTIFICATE HOLDER

CANCELLATION

City and County of Denver Purchasing Division
201 W. Colfax Ave.
Dept. 304
Denver CO 80202

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: Christine Walker

EXHIBIT F  
**COMMENTS/REMARKS**

Leased/Rented Equipment - Policy #CPA259118032, Union Insurance Company, NAIC #25844, effective 10/1/2018-10/1/2019, \$100,000 Limit, Actual Cash Value, \$500 Deductible

Installation Floater - Policy #CPA259118032, Union Insurance Company, NAIC #25844, effective 10/1/2018-10/1/2019, \$250,000 Limit, \$2,500 Deductible

Pollution Liability - Policy #CEO6075734729, Columbia Casualty Company, NAIC #31127, effective 10/1/2018-10/1/2019, \$1,000,000 Limit, \$10,000 Deductible

Excess Liability - Policy #EXS0428206, Cincinnati Indemnity, NAIC #23280, effective 3/6/2018-3/6/2019, \$4,000,000 Limit

CL CG 00 20 07 09 form attached includes:

General Liability

Blanket Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required by Written Contract

Per Project General Aggregate Limit

Primary and Non-Contributory When Required by Written Contract

Blanket Waiver of Subrogation When Required by Written Contract

CL CG 20 14 01 07 form attached includes:

General Liability

Blanket Additional Insured - Completed Operations, When Required by Written Contract

CW 34 68 02 15 form attached includes:

Business Auto

Blanket Additional Insured When Required by Written Contract

Blanket Waiver of Subrogation When Required by Written Contract

Workers Compensation:

Blanket Waiver of Subrogation

Umbrella Policy Follows Form for General Liability, Automobile Liability and Employers Liability for Additional Insured, Waiver of Subrogation and Primary Non-Contributory Status.

IMPORTANT: Please note complete policy forms will NOT be mailed hard copy to certificate holders. To obtain full policy forms as referenced herein, please provide our office with an email address for this and future certificate requests by sending an email to [certrequest@moodyins.com](mailto:certrequest@moodyins.com) and referencing the Insured Name.

EXHIBIT E

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES OR  
CONTRACTORS - COMPLETED OPERATIONS AUTOMATIC  
STATUS WHEN REQUIRED BY WRITTEN CONTRACT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to "bodily injury" and "property damage" caused, in whole or in part, by "your work" at locations specified in the written contract or agreement and included in the "products-completed operations hazard".

With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury" or "property damage" that occurs prior to the execution of, or subsequent to the expiration of, the contract or agreement in which you agreed that such person or organization be added as an additional insured on your policy.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## COMMERCIAL AUTOMOBILE EXPANSION ENDORSEMENT - PLATINUM

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

With respect to the coverages provided by this endorsement, the provisions of the Business Auto Coverage Form apply unless modified by this endorsement.

#### **A. NEWLY ACQUIRED OR FORMED ORGANIZATIONS**

The following is added to Paragraph **A.1. Who Is An Insured of Section II – Covered Autos Liability Coverage**:

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company or any organization excluded either by this Coverage Part or by endorsement, and over which you maintain ownership or majority interest of more than 50 percent will qualify as a Named Insured. However:

1. This insurance does not apply to any newly acquired or formed organization that is an "insured" under any other automobile policy or would be an "insured" under such policy but for its termination or the exhaustion of its Limit of Insurance.
2. Coverage under this provision does not apply to "bodily injury", "property damage", expense or "loss" that occurred before you acquired or formed the organization.
3. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

#### **B. ADDITIONAL INSURED BY CONTRACT OR AGREEMENT**

The following is added to Paragraph **A.1. Who Is An Insured of Section II – Covered Autos Liability Coverage**:

When you have agreed in a written contract or agreement to include a person or organization as an additional "insured", such person or organization is included as an "insured" subject to the following:

1. Such person or organization is an additional "insured" only to the extent such person or organization is liable for "bodily injury" or "property damage" because of the conduct of an "insured" under Paragraphs **a.** or **b.** under Paragraph **A.1. Who Is An Insured of Section II – Covered Autos Liability Coverage**, caused

by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

3. The written contract or agreement described above must have been executed prior to the "accident" that caused the "bodily injury" or "property damage" and be in effect at the time of such "accident".
4. The insurance afforded to any such additional "insured" does not apply to any "accident" beyond the period of time required by the written contract or agreement described above.
5. The most we will pay on behalf of such additional "insured(s)" is the lesser of:
  - a. The Limits of Insurance specified in the written contract or agreement described above; or
  - b. The Limits of Insurance shown in the Declarations.

This provision shall not increase the Limit of Insurance shown in the Declarations in this policy or coverage part.

6. The following changes are made to Paragraph **5. Other Insurance of B. General Conditions under Section IV – Business Auto Conditions**:
  - a. The following is added to Paragraph **5.a.**:  
If required by the written contract or agreement described above, the insurance afforded to the additional insured under this provision will be primary to, and will not seek contribution from, the additional insured's own insurance.
  - b. Paragraph **5.c.** is deleted in its entirety.

7. Paragraph **A.1.c.** under Section II – Covered Autos Liability Coverage is deleted in its entirety.
8. The definition of "insured contract" under Section V – Definitions is amended to add the following:

An "insured contract" does not include that part of any contract or agreement:

## EXHIBIT E

That pertains to the ownership, maintenance or use of an "auto" and which indemnifies a person or organization for other than the vicarious liability of such person or organization for "bodily injury" or "property damage" caused by your operation or use of a covered "auto".

However, a person or organization is an additional "insured" under this provision only to the extent such person or organization is not named as an "insured" by separate endorsement to this policy.

### **C. EMPLOYEES AS INSURED**

The following is added to Paragraph **A.1. Who Is An Insured** of Section **II – Covered Autos Liability Coverage**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

### **D. INCREASED COVERAGE - BAIL BONDS**

The Supplementary Payments Coverage Extension of Section **II – Covered Autos Liability Coverage** is amended as follows:

The Limit of Insurance in paragraph **A.2.a.(2)** is increased to \$5,000.

### **E. INCREASED COVERAGE - LOSS OF EARNINGS**

The Supplementary Payments Coverage Extension of Section **II – Covered Autos Liability Coverage** is amended as follows:

The Limit of Insurance in paragraph **A.2.a.(4)** is increased to \$1,000.

### **F. FELLOW EMPLOYEE COVERAGE**

The Fellow Employee Exclusion contained in Section **II – Covered Autos Liability Coverage** does not apply. This coverage is excess over any other collectible insurance.

### **G. COVERAGE EXTENSION – TRANSPORTATION EXPENSES**

Paragraph **A.4.a. Transportation Expenses** of Section **III – Physical Damage Coverage** is amended as follows:

1. The Limits of Insurance are increased to \$75 per day to a maximum of \$2,500.
2. We will also pay reasonable and necessary expenses to facilitate the return of the stolen "auto" to you.
3. It is agreed and understood and it is our stated intent that expenses incurred by you under the Transportation Expenses Coverage Extension will not also be covered or paid under the Rental Reimbursement Coverage provided by this endorsement or any rental reimbursement coverage added by separate endorsement to this policy.

### **H. EXTENDED COVERAGE - AIRBAGS**

The following is added to Exclusion **B.3.a.** of Section **III – Physical Damage Coverage**:

However, this exclusion does not apply to the unintended discharge of an airbag. This coverage is excess over any other collectible insurance or warranty providing such airbag coverage.

### **I. AUTO LOAN/LEASE GAP COVERAGE**

The following is added to Section **III – Physical Damage Coverage**:

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

1. The amount paid under the Physical Damage Coverage section of the policy; and
2. Any:
  - a. Overdue lease/loan payments at the time of the "loss";
  - b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - c. Security deposits not returned by the lessor;
  - d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
  - e. Carry-over balances from previous loans or leases.

However, this provision does not apply to the extent loan/lease gap coverage has been provided by separate endorsement to this policy.

### **J. GLASS REPAIR – NO DEDUCTIBLE**

The following is added to Paragraph **D. Deductible** of Section **III – Physical Damage Coverage**:

Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" to glass when you elect to patch or repair rather than replace the glass.

### **K. INCREASED COVERAGE - ELECTRONIC EQUIPMENT**

The \$1,000 limit indicated in Paragraph **C.1.b.** under Section **III – Physical Damage Coverage** is increased to \$2,500.

### **L. EXTENDED COVERAGE - PERSONAL PROPERTY**

The following is added to Paragraph **A.4. Coverage Extensions** of Section **III – Physical Damage Coverage**:

Physical Damage Coverage on a covered "auto" may be extended to "loss" to your personal property or, if you are an individual, the personal property of a family member that is in the covered "auto" at the time of "loss"; and caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

The insurance provided by this coverage extension is excess over any other collectible insurance. The most we will pay for any one "loss" under this coverage extension is \$500. However, our payment for "loss" to personal property will only be for the account of the owner of the property.

Under this provision personal property does not include and we will not pay for "loss" of: currency, coins, securities or contraband.

No deductible applies to this coverage extension.

#### M. TOWING

Paragraph **A.2.** Towing of Section III – Physical Damage Coverage is replaced by the following:

We will pay up to \$200 for towing and labor costs incurred each time a covered "auto" is disabled. However, the labor must be performed at the place of disablement.

#### N. FIRE EXTINGUISHER RECHARGE

The following is added to Paragraph **A.4.** Coverage Extensions of Section IV – Physical Damage Coverage:

When fire extinguishers are kept in your covered "auto" and any are discharged in an attempt to extinguish a fire, we will pay the lesser of the actual cost of recharging or replacing such fire extinguisher(s).

No deductible applies to this coverage.

#### O. HIRED AUTO PHYSICAL DAMAGE COVERAGE

The following is added to Paragraph **A.4.** Coverage Extensions of Section III – Physical Damage Coverage:

If hired "autos" are covered "autos" for Covered Autos Liability Coverage and if Physical Damage Coverage is provided for any "auto" you own, then the Physical Damage coverages provided are extended to "autos" you lease, rent, hire or borrow from someone other than your "employees", partners or members of their households subject to the following:

1. The most we will pay in any one "loss" is the lesser of:

- a. The actual cash value of the "auto";
- b. The cost to repair or replace the "auto"; or
- c. \$100,000.

2. Paragraph 1. above is subject to a deductible. The deductible shall be equal to the amount of the highest deductible applicable for that coverage to any owned "auto".

No deductible will apply to "loss" caused by fire or lightning.

3. Hired Auto Physical Damage Coverage is subject to the following:

- a. If symbol 8 is shown in the Covered Auto section of the Declarations page for any of the Physical Damage coverages, then the Hired Auto Physical Damage coverage described in this endorsement does not apply.
- b. Other than indicated in Paragraphs a. directly above, coverage provided under this provision will be excess over any other collectible insurance or coverage.

4. In addition to the limit set forth in Paragraph 1. above, we will pay up to \$500 per day, to a maximum of \$3,500 per "loss" for:

- a. Any costs or fees associated with the "loss" to a hired "auto"; and
- b. Loss of use of the hired "auto", provided it is the consequence of an "accident" for which you are legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.

However, Paragraph **A.4.b.** Loss of Use Expenses under Section III – Physical Damage Coverage of the Business Auto Coverage Form does not apply.

#### P. RENTAL REIMBURSEMENT COVERAGE

We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto", subject to the following provisions:

1. Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto".
2. No deductible applies to this coverage.
3. We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the expiration date of the policy, with the lesser of the following number of days:
  - a. The number of days when the covered "auto" has been repaired or replaced; or
  - b. 45 days.
4. Our payment is limited to the lesser of the following amounts:
  - a. Necessary and actual expenses incurred.
  - b. The maximum rental expenses indicated below:
    - (1) \$75 for any one day;
    - (2) \$3,375 because of "loss" to any one covered "auto"; or
    - (3) \$15,000 because of all "loss" to all covered "autos" in any one policy period.
5. We will pay up to an additional \$300 for the reasonable and necessary expenses you incur to remove your materials and equipment from the covered "auto" and replace such materials and equipment on the rental "auto".
6. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.
7. If "loss" results from the total theft of a covered "auto" of the "private passenger type", we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under the Physical Damage Coverage Extension of the Business Auto Coverage Form or any endorsements thereto.

## EXHIBIT E

However, this provision does not apply to the extent rental reimbursement coverage is provided by separate endorsement to this policy.

### Q. DRIVE OTHER CAR COVERAGE

1. The following is added to Section II – Covered Autos Liability Coverage:

a. Any "auto" you don't own, hire or borrow is a covered "auto" for Liability Coverage while being used by:

- (1) You, if you are designated in the Declarations as an individual;
- (2) Your partners or members, if you are designated in the Declarations as a partnership or joint venture;
- (3) Your members or managers, if you are designated in the Declarations as a limited liability company;
- (4) Your executive officers, if you are designed in the Declarations as an organization other than an individual, partnership, joint venture or limited liability company; and
- (5) The spouse of any person named in Paragraphs 1.a.(1) through 1.a.(4) directly above, while a resident of the same household;

Except:

- (a) Any "auto" owned by that individual or by any member of his or her household; or
- (b) Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

2. **Changes In Auto Medical Payments And Uninsured And Underinsured Motorists Coverages**

The following is added to **Who Is An Insured**:

Any individual named in Paragraph 1.a. above and his or her "family members" are "insureds" while "occupying" or while a pedestrian when being struck by any "auto" you don't own except:

Any "auto" owned by that individual or by any "family member".

3. **Changes In Physical Damage Coverage**

Any private passenger type "auto" you don't own, hire or borrow is a covered "auto" while in the care, custody or control of any individual named in Paragraph 1.a. above or his or her spouse while a resident of the same household except:

- a. Any "auto" owned by that individual or by any member of his or her household; or
- b. Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

4. The most we will pay for the total of all damages under Covered Autos Liability Coverage, Auto Medical Payments, Uninsured

Motorist Coverage and Underinsured Motorists Coverage is the Limit Of Insurance shown in the Declarations as applicable to owned "autos".

5. Our obligation to pay for, repair, return or replace damaged or stolen property under Physical Damage Coverage, will be reduced by a deductible equal to the amount of the highest deductible shown for any owned private passenger type "auto" applicable to that coverage. If there are no owned private passenger type "autos", the deductible shall be \$250 for Comprehensive Coverage and \$500 for Collision Coverage. No deductible will apply to "loss" caused by fire or lightning.

### 6. Additional Definition

As used in this Drive Other Car Provision:

"Family member" means a person related to the individual named in Paragraph 1.a. by blood, marriage or adoption who is a resident of the individual's household, including a ward or foster child.

However, this provision does not apply to the extent drive other car coverage is provided by separate endorsement to this policy.

### R. KNOWLEDGE OF AN ACCIDENT, CLAIM, SUIT OR LOSS

The following is added to Paragraph A.2. Section IV – Business Auto Conditions:

Your obligation to provide prompt notice of an "accident", claim, "suit" or "loss" is satisfied if you or a person designated by you to be responsible for insurance matters is notified of, or in any manner made aware of an "accident", claim, "suit" or "loss" and provides us such notice as soon as practicable.

### S. WAIVER OF SUBROGATION BY CONTRACT OR AGREEMENT

The following is added to Paragraph A.5. of Section IV - Business Auto Conditions:

We waive any right of recovery we may have against a person or organization because of payments we make for "bodily injury" or "property damage" when you and such person or organization have agreed in writing in a contract or agreement to waive such right of recovery, provided:

1. Such written contract or agreement was:
  - a. Made prior to the "accident" or "loss" resulting in the covered "bodily injury" or "property damage"; and
  - b. Was in effect at the time of the covered "bodily injury" or "property damage".
2. The covered "bodily injury" or "property damage" must arise out of the operations specified in such written contract or agreement.
3. At our request you must provide us with a copy of the aforementioned written contract or agreement.

## EXHIBIT E

### T. UNINTENTIONAL OMISSIONS

The following is added Paragraph **B.2.** of Section **IV** - Business Auto Conditions:

If you unintentionally fail to disclose any hazards existing at the inception of this policy, such failure will not prejudice the coverage provided to you. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal.

### U. LIBERALIZATION

If we revise this endorsement to provide greater coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ THIS CAREFULLY.**

## **CONTRACTORS' COMMERCIAL GENERAL LIABILITY ENHANCEMENT ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### **A. MEDICAL PAYMENTS**

If **SECTION I - COVERAGE C MEDICAL PAYMENTS** is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit provided by this policy, subject to the terms of **SECTION III - LIMITS OF INSURANCE**, shall be the greater of:
  - a. \$10,000; or
  - b. The Medical Expense Limit shown in the Declarations of this Coverage Part.

#### **B. FIRE, LIGHTNING, EXPLOSION, SMOKE AND SPRINKLER LEAKAGE DAMAGE TO PREMISES YOU RENT**

If damage to premises rented to you under **Coverage A** is not otherwise excluded from this policy, the following applies:

1. The last paragraph of **SECTION I - COVERAGE A.2. Exclusions** is deleted and replaced by the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE**.

2. Paragraph 6. of **SECTION III - LIMITS OF INSURANCE** is deleted and replaced by the following:

6. Subject to 5. above, the greater of:
  - a. \$300,000; or
  - b. the Damage To Premises Rented To You Limit shown in the Declarations;

is the most we will pay under **COVERAGE A** for damages because of property damage to any one premises, while rented to you, or temporarily occupied by you with the permission of the owner arising out of any one fire, lightning, explosion or sprinkler leakage incident.

3. Paragraph 4.b.(1)(a)(ii) **Other Insurance of SECTION IV - COMMERCIAL GENERAL**

**LIABILITY CONDITIONS** is deleted and replaced by the following:

- (ii) That is Fire, Lightning, Explosion or Sprinkler Leakage insurance for premises rented to you or temporarily occupied by you with the permission of the owner;

4. Paragraph 9.a. of **SECTION V - DEFINITIONS** is deleted and replaced by the following:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of the owner is not an insured contract;

#### **C. NON-OWNED WATERCRAFT**

1. Paragraph g.(2) of **SECTION I - COVERAGE A.2. Exclusions** is deleted and replaced by the following:

A watercraft you do not own that is:

- (a) Less than 51 feet long; and
- (b) Not used to carry persons or property for a charge.

#### **D. SUPPLEMENTARY PAYMENTS**

**SECTION I - SUPPLEMENTARY PAYMENTS COVERAGES A AND B** is amended as follows:

1. The limit of insurance in paragraph 1.b. is increased from \$250 to \$2,500; and
2. The limit of insurance in paragraph 1.d. is increased from \$250 to \$500.

#### **E. AUTOMATIC ADDITIONAL INSURED - SPECIFIED RELATIONSHIPS**

The following is added to Paragraph 2. of **SECTION II - WHO IS AN INSURED**:

- e. Any person or organization described in paragraph f. below, whom you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy.

Such person or organization is an insured provided:

- (1) The written or oral contract or agreement is:
  - (a) Currently in effect or becomes effective during the policy period; and
  - (b) Executed prior to an "occurrence" or offense to which this insurance would apply.
- (2) They are not specifically designated as an additional insured under any other provision of, or endorsement added to, this policy.

f. Only the following persons or organizations are additional insureds under this endorsement, and coverage provided to such additional insureds is limited as provided herein:

- (1) The manager or lessor of a premise leased to you, but only with respect to liability arising from the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (a) Any "occurrence" which takes place after you cease to be a tenant of that premises.
  - (b) Structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.
- (2) Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- (3) Any state or political subdivision, subject to the following additional provision:

This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:

- (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or

- (b) The construction, erection, or removal of elevators; or

- (c) The ownership, maintenance, or use of any elevators.

**F. ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS**

1. **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this policy ends when your operations for that additional insured are completed.

2. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

- b. "Bodily injury" or "property damage" occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or

subcontractor engaged in performing operations for a principal as a part of the same project.

3. The insurance provided by this endorsement is primary insurance and we will not seek contribution under any insurance policy under which such additional insured is a named insured, if such policy was procured and paid for by such additional insured, or a parent or related entity of such additional insured.
4. With respect to the insurance afforded to these additional insureds, **SECTION III - LIMITS OF INSURANCE** is amended as follows:

The limits applicable to the additional insured are those specified in the written contract or agreement or the limits stated in the Declarations, whichever is less. If no limits are specified in the written contract or agreement, the limits applicable to the additional insured are those specified in the Declarations. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.

#### G. PROPERTY DAMAGE TO BORROWED EQUIPMENT

1. Paragraph 2.j. of **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is amended as follows:

Paragraphs (3) and (4) of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

2. **SECTION III - LIMITS OF INSURANCE** is deleted and replaced by the following:

The most we will pay in any one "occurrence" for "property damage" to borrowed equipment is \$15,000. This limit of insurance is the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or suits brought; or
- c. Persons or organizations making claims or bringing suits.

#### 3. Deductible

- a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of \$250 as applicable to "property damage" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence".
- b. The terms of this insurance, including those with respect to our right and duty to defend the insured against any "suits" seeking those damages; and your duties

in the event of an "occurrence", claim, or "suit" apply irrespective of the application of the deductible amount.

- c. We may pay any part or all of the deductible amount to effect settlement of any claim or suit and, upon notification of the action taken; you shall promptly reimburse us for such part of the deductible amount as we have paid.

#### H. BROADENED NAMED INSURED

Paragraph 3. of **SECTION II - WHO IS AN INSURED** is deleted and replaced by the following:

Any organization, other than a joint venture, over which you maintain ownership or majority interest of more than 50% will be a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
- b. **COVERAGE A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization.
- c. **COVERAGE B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

#### I. CONSTRUCTION PROJECT GENERAL AGGREGATE LIMIT

1. For all sums which the insured becomes legally obligated to pay as damages caused by occurrences under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which can be attributed only to ongoing operations at a single construction project away from premises owned by or rented to the insured:

- a. A Single Construction Project General Aggregate Limit applies to each construction project away from premises owned by or rented to the insured, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.

- b. The Single Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under **COVERAGE C** regardless of the number of:

- (1) Insureds;
- (2) Claims made or "suits" brought; or

- (3) Persons or organizations making claims or bringing "suits".
  - c. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the Single Construction Project General Aggregate Limit for that construction project away from premises owned by or rented to the insured. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Single Construction Project General Aggregate Limit for any other separate construction project away from premises owned by or rented to the insured.
  - d. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Single Construction Project General Aggregate Limit.
2. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which cannot be attributed only to ongoing operations at a single designated construction project away from premises owned by or rented to the insured:
    - a. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
    - b. Such payments shall not reduce any Single Construction Project General Aggregate Limit.
  3. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Single Construction Project General Aggregate Limit.
  4. If the applicable construction project away from premises owned by or rented to the insured has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
  5. The provisions of **LIMITS OF INSURANCE (SECTION III)** not otherwise modified by this

endorsement shall continue to apply as stipulated.

**J. KNOWLEDGE OF OCCURRENCE**

The following is added to paragraph 2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

- e. A report of an "occurrence", offense, claim or "suit" to:
  - (1) You, if you are an individual,
  - (2) A partner, if you are a partnership,
  - (3) An executive officer, if you are a corporation, or
  - (4) A manager, if you are a limited liability company;

is considered knowledge and requires you to notify us of the "occurrence", offense, claim, or suit as soon as practicable.
- f. We are considered on notice of an "occurrence", offense, claim or "suit" that is reported to your Workers Compensation insurer for an event which later develops into an "occurrence", offense, claim or "suit" for which there is coverage under this policy. However, we will only be considered on notice if you notify us as soon as you know the claim should be addressed by this policy rather than your Workers' Compensation policy.

**K. UNINTENTIONAL OMISSIONS**

The following is added to paragraph 6. **Representations of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

- d. If you unintentionally fail to disclose any exposures existing at the inception date of your policy, we will not deny coverage under this Coverage Part solely because of such failure to disclose. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.
- This provision does not apply to any known injury or damage which is excluded under any other provision of this policy.

**L. MENTAL ANGUISH**

Paragraph 3. of **SECTION V - DEFINITIONS** is deleted and replaced by the following:

3. Bodily injury means bodily injury, sickness or disease sustained by a person, including mental anguish or death resulting from any of these at any time.

**M. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS**

Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of **SECTION IV - COMMERCIAL GENERAL LIABILITY**



**CONDITIONS** is amended by the addition of the following:

We waive any right of recovery we may have because of payments we make for injury or damage arising out of your ongoing operations or your work done under a contract requiring such waiver with that person or organization and included in the "products-completed operations hazard".

However, our rights may only be waived prior to the occurrence giving rise to the injury or damage for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce those rights.

**N. LIMITED JOB SITE POLLUTION**

1. Exclusion f. under **SECTION I - COVERAGE A** is replaced by the following:

**2. Exclusions**

This insurance does not apply to:

**f. Pollution**

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) At or from a storage tank or other container, ducts or piping which is below or partially below the surface of the ground or water or which, at any time, has been buried under the surface of the ground or water and then subsequently exposed by erosion, excavation or any other means if the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" arises at or from any premises, site or location which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are

performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor.

Subparagraph (b) does not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement issued or made pursuant to any environmental protection or environmental liability statutes or regulations that any insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for those sums the insured becomes legally obligated to pay as damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

2. With respect to "bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. The "Each Occurrence Limit" shown in the Declarations does not apply.

b. Paragraph 7. of **LIMITS OF INSURANCE (SECTION III)** does not apply.

c. Paragraph 1. of **SECTION III - LIMITS OF INSURANCE** is replaced by the following:

EXHIBIT E

The Limits Of Insurance shown in this endorsement, or in the Declarations and the rules below fix the most we will pay regardless of the number of:

- (1) Insureds;
- (2) Claims made or "suits" brought; or
- (3) Persons or organizations making claims or bringing "suits".

d. The following are added to **SECTION III - LIMITS OF INSURANCE:**

8. Subject to 2. or 3. above, whichever applies, the most we will pay for the sum of:

- a. Damages under **COVERAGE A;** and
- b. Medical expenses under **COVERAGE C**

because of "bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" is \$100,000.

9. Subject to 8. above, the Medical Expense Limit is the most we will pay under **COVERAGE C** for all medical expenses because of "bodily injury" sustained by any one person arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants".

**O. OTHER INSURANCE**

If this policy includes a Coverage Form or an Endorsement which provides coverage for loss or damage covered by one or more of the Extensions of this endorsement, the limit and the coverage provided by this endorsement are deleted and replaced by the limit and coverage provided by that Coverage Form or Endorsement.