

A G R E E M E N T

THIS AGREEMENT (“Agreement”) is made between the **CITY AND COUNTY OF DENVER**, a home rule municipal corporation of the State of Colorado (“City”) and **BROWNSTEIN HYATT FARBER SCHRECK, LLP**, a Colorado limited liability partnership, whose address is 410 17th Street, Suite 2200, Denver, Colorado 80202 (“Special Counsel”), collectively “the Parties.”

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

1. COORDINATION WITH DEPARTMENT OF LAW: To provide the best possible legal representation and reduce costs and expenses, Special Counsel agrees whenever possible to utilize the staff of the City Attorney’s Office, together with other City personnel. As directed by the City Attorney, Special Counsel agrees to utilize and coordinate with any consultant retained by the City on matters related to Special Counsel’s work. Special Counsel acknowledges that one or more Assistant City Attorneys will be assigned to provide additional legal representation to the City on certain matters. Special Counsel shall submit to the City for approval: budgets, work plans and case plans in such form as may be required by the City Attorney’s Office.

2. PROFESSIONAL SERVICES TO BE PERFORMED: Special Counsel shall provide professional legal services, as provided by Subtitle B of the Denver City Charter at section 6.1.2 and in conformance with the Colorado Rules of Professional Conduct, to serve as legal counsel for overflow and conflicts litigation, and other legal matters and services, as necessary and directed by the City Attorney. Martha L. Fitzgerald, Esq. shall serve as lead attorney for Special Counsel and shall direct the provision of services under this Agreement. Special Counsel shall supply the City with a copy of all pleadings, motions, briefs, interrogatories, requests for admissions, requests for production of documents, memoranda, orders and judgments of the court or arbitrator, contracts, agreements, memoranda, or other documents prepared by Special Counsel or any subcontractor hired by Special Counsel under this Agreement. Special Counsel agrees that the City Attorney, or the City Attorney’s designated representative, shall have final authority over the use of all documents to be prepared in the above matters.

3. TERM: The Agreement will commence on March 16, 2015, and will expire on March 15, 2018 (“Term”).

4. PAYMENT OF FEES AND EXPENSES:

a. The City shall pay to Special Counsel, and Special Counsel agrees to accept as full payment of fees **not to exceed ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$1,500,000.00)**, which shall be paid from time to time on the basis of monthly statements rendered by Special Counsel to the City.

b. **Fees.** Special Counsel shall be paid for actual time devoted to work for the City, including meetings with City officials, review, preparation for and appearance on behalf of the City in any negotiations, proceedings, conferences and telephone conferences, and all necessary travel time at the following rates:

| | |
|-----------|-------------------|
| Attorneys | \$325.00 per hour |
|-----------|-------------------|

Paralegals employed by Special Counsel providing services under this Agreement may be billed at hourly rates pre-approved by the City Attorney.

c. **Expenses and Costs:** All reimbursable expenses or costs in excess of \$100.00 shall be approved in writing in advance by the City Attorney. An administrative fee equal to 4 percent of the legal fees charged shall be included on all invoices for all out-of-pocket costs which include long distance telephone calls, telecopy charges, in-office copying, ordinary postage and deliveries.

d. Maximum Contract Amount:

(1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation **will not exceed ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$1,500,000.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Special Counsel beyond that specifically stated herein. Any services performed beyond those set forth in this Agreement are performed at Special Counsel's risk and without authorization under the Agreement.

(2) The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

5. STATEMENT OF SERVICES RENDERED: The Special Counsel shall submit to the City a monthly invoice describing all services rendered and costs incurred by Special Counsel under this Agreement for the period covered by said invoice in such format as designated by the City Attorney or his designated representative. Each such invoice shall contain at least the following information: the date and nature of the services rendered, the name and position of the provider of such service, the amount of time, in hours and tenths or fractions of hours, attributable to each such service, and the total number of hours billed to the City for the period covered by the invoice. All invoices shall reference the Contract Control number of this Agreement as designated below on the City's signature page. The City reserves the right to require such additional documentation as it deems appropriate to support the monthly invoice of Special Counsel. Any questions regarding the eligibility of an expense must be resolved in writing by the City prior to the incurrence of such expense by Special Counsel. A partner of the Special Counsel shall verify the monthly invoice.

Invoices are confidential attorney-client privileged documents and shall remain as such until and unless otherwise directed by the City Attorney. The City shall use its best efforts to pay invoices within thirty (30) days of receipt.

The Special Counsel shall attach to all invoices and billings provided hereunder a completed copy of the Invoice Review document, a blank copy of which is attached as **Appendix 1** and incorporated by reference. The City reserves the right to require such additional documentation as it deems appropriate to support the monthly invoice of Special Counsel.

6. STATUS OF SPECIAL COUNSEL: The status of the Special Counsel under this Agreement shall be that of licensed attorneys at law, providing professional legal services to the City under this Agreement, and neither Special Counsel nor its agents or personnel shall be considered employees of the City for any purpose whatsoever.

7. TERMINATION: The City may terminate this Agreement at any time, with or without cause. Termination shall be subject to Court consent, if such consent is required. If the Special Counsel's services are terminated, it shall be paid only for that portion of services satisfactorily completed in accordance with this Agreement at the time of notice of such action.

8. 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 Special Counsel, 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.

9. 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 Special Counsel. 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.

10. INSURANCE:

a. General Conditions: Special Counsel 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. Special Counsel shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the Parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the Parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Special Counsel. Special Counsel 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 Special Counsel. The Special Counsel 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 – Workers’ Compensation, Commercial General Liability, and Professional Liability: Special Counsel shall provide a copy of this Agreement to its insurance agent or broker. Special Counsel may not commence services or work relating to the Agreement prior to placement of coverage. Special Counsel certifies that the certificate of insurance attached as **Exhibit A**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement with the exception of the Personal Automobile insurance requirement. 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 Special Counsel’s breach of this Agreement or of any of the City’s rights or remedies under this Agreement. The City’s Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

c. Additional Insureds: For Commercial General Liability and Professional Liability, Special Counsel and subcontractor’s insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

d. Waiver of Subrogation: For all coverages, Special Counsel’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 Special Counsel. Special Counsel 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. Special Counsel agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

f. Workers’ Compensation/Employer’s Liability Insurance: The Consultant 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. The Consultant expressly represents

to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Consultant'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 the Consultant executes this Agreement

g. Commercial General Liability: Special Counsel 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: Special Counsel 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. Professional Liability: Special Counsel shall maintain professional liability limits of \$1,000,000.00 per claim and \$1,000,000.00 aggregate policy limit.

j. Additional Provisions:

(1) For Commercial General Liability, the policies must provide the following:

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

(2) For claims-made coverage:

- A. The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
- B. Special Counsel shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits.

(3) At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Special Counsel will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

11. DEFENSE AND INDEMNIFICATION

a. Special Counsel agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims shall have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Special Counsel 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. Special Counsel’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. Special Counsel’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. Special Counsel will defend any and all Claims brought or threatened against City, and will pay on behalf of City, any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

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

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

12. COLORADO GOVERNMENTAL IMMUNITY ACT: In relation to the Agreement, 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, C.R.S. § 24-10-101, *et seq.*

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

14. ASSIGNMENT; SUBCONTRACTING: Except as specifically authorized hereunder, the Special Counsel shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the City Attorney's prior written consent. Except as specifically authorized hereunder, any assignment or subcontracting without such consent will be ineffective and void, and shall be cause for termination of this Agreement by the City. The City Attorney has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement on account of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Special Counsel shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-consultant, subcontractor or assign.

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

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

17. NO AUTHORITY TO BIND CITY TO CONTRACTS: The Special Counsel 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 D.R.M.C.

18. SEVERABILITY: Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent

jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.

19. CONFLICT OF INTEREST:

a. No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. Special Counsel shall not hire, or contract for services with, any employee or officer of the City 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. Special Counsel acknowledges that it and its attorneys are bound by the Colorado Rules of Professional Conduct applicable to Colorado attorneys, including without limitation Rule 1.7, which addresses a lawyer's engagement under circumstances involving a conflict of interest. Special Counsel shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. Special Counsel represents that it has disclosed any and all current or potential conflicts of interest, which shall include transactions, activities or conduct that would affect the judgment, actions or work of the Special Counsel by placing the Special Counsel's own interests, or the interests of any party with whom the Special Counsel has a professional relationship or contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement in the event it determines a conflict exists, after it has given the Special Counsel written notice describing the conflict.

20. NOTICES: Notices concerning termination of the Agreement, alleged or actual violations of the terms of the Agreement, and matters of similar importance 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 Special Counsel at the address first above written, and if to the City at:

City Attorney
1437 Bannock Street, Room 353
Denver, Colorado 80202

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.

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

a. This Agreement is subject to D.R.M.C. Division 5 of Article IV of Chapter 20, and any amendments (the “Certification Ordinance”).

b. The Special Counsel 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 Special Counsel 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 Special Counsel 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 that otherwise requires the Special Counsel 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 Special Counsel will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with

the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.

(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 Special Counsel is liable for any violations as provided in the Certification Ordinance. If Special Counsel 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 Special Counsel 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 Special Counsel from submitting bids or proposals for future contracts with the City.

22. DISPUTES: All disputes between the City and Special Counsel 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), *et seq.* For the purposes of that administrative procedure, the City official rendering a final determination shall be the City Attorney.

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, Denver Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District.

24. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under the Agreement, the Special Counsel 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, marital status, or physical or mental disability. The Special Counsel shall insert the foregoing provision in all subcontracts.

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

26. LEGAL AUTHORITY: Special Counsel 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 Special Counsel represents and warrants that he has been fully authorized by Special Counsel to execute the Agreement on behalf of Special Counsel and to validly and legally bind Special Counsel 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 Special Counsel or the person signing the Agreement to enter into the Agreement.

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

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

29. INTELLECTUAL PROPERTY RIGHTS: The City and Special Counsel intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Special Counsel and any subcontractor hereunder and paid for by the City pursuant to this Agreement, in preliminary or final form and on any media whatsoever (collectively, "Materials"), shall belong to the City. The Special Counsel shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the

Materials are not a “work made for hire,” the Special Counsel and any subcontractor hereunder (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity.

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

31. ADVERTISING AND PUBLIC DISCLOSURE: Special Counsel shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Special Counsel’s advertising or public relations materials without first obtaining the written approval of the City Attorney. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Special Counsel shall notify the City Attorney in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

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

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

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

35. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: The Special Counsel shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs.

36. COUNTERPARTS OF THE AGREEMENT: The Agreement may be executed in counterparts, each of which is an original and constitute the same instrument.

[Signatures appear on the following pages.]

ATTACHMENTS:

EXHIBIT A CERTIFICATE OF INSURANCE

APPENDIX 1 OUTSIDE COUNSEL/PROFESSIONAL SERVICES INVOICE REVIEW

Contract Control Number: ATTNY-201522360-00

Contractor Name: BROWNSTEIN HYATT FARBER SCHRECK LLP

By: Martha L. Fitzgerald

Name: MARTHA L. FITZGERALD
(please print)

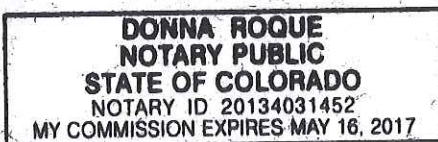
Title: PARTNER
(please print)

ATTEST: [if required]

By: Donna Roque

Name: DONNA ROQUE
(please print)

Title: Legal Assistant
(please print)



Contract Control Number:

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

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Exhibit A

(Exhibit on Following Page)

Client#: 32793

BROWHYA

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/10/2015

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

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

PRODUCER: IMA, Inc. - Colorado Division, 1705 17th Street, Suite 100, Denver, CO 80202, 303-534-4567. CONTACT NAME: denpam@imacorp.com. INSURER(S) AFFORDING COVERAGE: Charter Oak Fire Ins Co. (*), Travelers Property Casualty Co, *Travelers Insurance Co.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

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

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) City and County of Denver, its elected and appointed officials, employees and volunteers are included as Additional Insureds on the General Liability Policy...

CERTIFICATE HOLDER: City & County of Denver, 1437 Bannock St., Room 353, Denver, CO 80202. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/10/2015

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

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

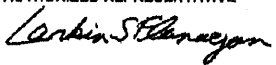
| | |
|---|---|
| PRODUCER Thompson Flanagan & Company 626 W. Jackson Blvd. 5th Floor Chicago, IL 60661 | CONTACT NAME: Casey Stalter PHONE (A/C, No, Ext): (312) 239-2800 FAX (A/C, No): (312) 263-1551 E-MAIL ADDRESS: |
| | INSURER(S) AFFORDING COVERAGE NAIC # INSURER A: Lloyds of London INSURER B: Nautilus Insurance Company INSURER C: INSURER D: INSURER E: INSURER F: |

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|---|-----------|----------|---------------|-------------------------|-------------------------|--|
| | COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: | | | | | | EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$ |
| | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS | | | | | | COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ |
| | <input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ | | | | | | EACH OCCURRENCE \$ AGGREGATE \$ \$ |
| | <input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | <input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ |
| A | Professional Liab | | | IM1401167 | 11/01/2014 | 11/01/2015 | |
| B | Professional Liab | | | PLP1000244P4 | 11/01/2014 | 11/01/2015 | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Special Counsel shall maintain professional liability limits of \$1,000,000 per claim and \$1,000,000 aggregate policy limit.

| | |
|--|--|
| CERTIFICATE HOLDER City & County of Denver 1437 Bannock St., Room 353 Denver, CO 80202 | CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  |
|--|--|

AGENCY CUSTOMER ID: **BROWNST-01**

LKOSNICK

LOC #: _____

ADDITIONAL REMARKS SCHEDULEPage 1 of 1

| | | | |
|--|-----------------------------|---|--|
| AGENCY Thompson Flanagan & Company | | NAMED INSURED Brownstein, Hyatt, Farber & Schreck, L.L.P. 410 Seventeenth Street Denver, CO 80202 | |
| POLICY NUMBER SEE PAGE 1 | | EFFECTIVE DATE: SEE PAGE 1 | |
| CARRIER SEE PAGE 1 | NAIC CODE SEE P 1 | | |

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: **ACORD 25** FORM TITLE: **Certificate of Liability Insurance**

Remarks:**Scottsdale Insurance Company - LWS0000258****National Fire & Marine Insurance Co. - 42-XPL-150044-02****Aspen American Insurance Co. - LXA94RQ14****Alterra Excess & Surplus (Markel) - MAX7PL0001540****Ironshore Insurance Company - 002196900**

APPENDIX 1. OUTSIDE COUNSEL/PROFESSIONAL SERVICES INVOICE REVIEW
 (TO BE COMPLETED BY OUTSIDE COUNSEL/PROFESSIONAL SERVICES PROVIDER AND ATTACHED TO ALL
 BILLINGS)

Name of Firm: _____

Billing Attorney/Party: _____ For Services Rendered In (Month): _____

Date Invoice sent: (1) _____ City Attorney's Office Supervising Attorney/Manager: _____

Matter: _____ Invoice No. _____

Contract No.: _____ Contract Expiration Date: _____

___ 1. **CONTRACT BILLING STATUS**

| BILLINGS | FEES | DISBURSEMENTS/EXPENSES | TOTAL |
|------------------------|------|------------------------|-------|
| Contract Cap Amt. | | | |
| Invoice Amts. to Date: | | | |
| Current Invoice Amt. | | | |
| Balance Remaining: | | | |

___ 2. **EFFECT OF CURRENT INVOICE ON CONTRACT CAP:**

Within 15% of Contract Cap? Yes ___ No ___

___ 3. Please provide the anticipated billings (for services) for the next two months.

Amounts: \$ _____ and \$ _____.

___ 4. Have there been any developments that call for review of the project work plan or indicate the need to amend the contract cap amount? Yes ___ (2) No ___

___ 5. Have there been any changes in hourly rates or disbursement charge rates since the last invoice?

Yes ___ (2) No ___

___ 6. Did you submit documentation for items over \$500?

| | Yes | No (2) | N/A | Name of Authorizing Party |
|---|-----|--------|-----|------------------------------|
| Outside Photocopying | ___ | ___ | ___ | |
| Computer Research (Lexis/Nexis/Westlaw) | ___ | ___ | ___ | |
| Other (2) _____ | ___ | ___ | ___ | |

Signature of Firm's Billing Attorney/Party: _____ Date: _____

Section below to be completed by CAO Supervising Attorney/Manager

| | | |
|--------------------|-----------------------|-----------|
| Date Form Reviewed | \$ _____ OK to pay | Signature |
|--------------------|-----------------------|-----------|

(1) Please provide explanation if invoice is sent after 15th of month following services.

(2) Please explain.