

## A G R E E M E N T

**THIS AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **BDO USA, LLP**, a Delaware limited liability partnership doing business at 303 E. 17th Avenue, Suite 600, Denver, Colorado 80203 (the “Contractor”), jointly “the parties”.

The parties agree as follows:

**1. COORDINATION AND LIAISON:** The Contractor shall fully coordinate all services under the Agreement with the Denver Auditor, (“Denver Auditor”) or, the Denver Auditor’s Designee.

**2. SERVICES TO BE PERFORMED:**

**a.** The Contractor shall diligently undertake, to perform, and produce all the deliverables set forth on **Exhibit A, the Scope of Work**, (also referred to as “SOW”). Contractor and the City acknowledge and agree that, for any Renewal Terms (as defined below), the parties will enter into an annual engagement letter in substantially the form attached hereto as Exhibit A, which sets forth the obligations and responsibilities of that year’s services. So long as the engagement letter substantially matches the form attached as Exhibit A and does not purport to alter the terms of this Agreement, no amendment to this Agreement is necessary for the Auditor’s acceptance and execution of the annual engagement letter.

**b.** The Contractor is ready, willing, and able to provide the services required by this Agreement.

**c.** The Contractor shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.

**3. TERM:**

**a. Initial Term.** The Agreement will commence on the date of the City’s signature (the “Effective Date”) of this Agreement and will expire on December 31, 2021, (the “Initial Term.”)

**b. Renewal Options.** The City shall have the unilateral option to renew the Initial Term for up to five (5) additional one-year terms. The first Renewal Term shall be from January 1, 2022 to December 31, 2022; the second Renewal Term shall be from January 1, 2023 to

December 31, 2023; the third Renewal Term shall be from January 1, 2024 to December 31, 2024; the fourth Renewal Term shall be from January 1, 2025 to December 31, 2025; and the fifth Renewal Term shall be from January 1, 2026 to December 31, 2026; (each an “Annual Renewal”). Subject to the Auditor’s prior written authorization, the Contractor shall not continue to work past the expiration date unless the Agreement has been renewed.

**c. Renewal Procedures; Non-Renewal.** The Maximum Payment shall be payable only if funds are appropriated by the City Council and for which an encumbrance has been made in each year for the ensuing fiscal year. The option of the City to renew the Initial Term, or any subsequent Renewal Term shall have been deemed to have been exercised upon the City making such appropriation and encumbrance for the next fiscal year. If such appropriation and encumbrance is not made for a future fiscal year, during which such Renewal Term occurs, then, the City shall be deemed to have failed to exercise its option to renew this Agreement for a subsequent Renewal Term, whereupon this Agreement will expire and terminate on the expiration date of the then current Initial Term or Renewal Term. Absent any notice of non-appropriation or any notice delivered in accordance with this section the Agreement shall be deemed to have been renewed unless the Contractor otherwise gives notice of non-renewal prior to the beginning of an Annual Renewal Term. It is expressly understood and agreed that if the City exercises its option to renew this Agreement for a Renewal Term, the City’s obligation to make payments to the Contractor shall only extend to monies appropriated and encumbered for the purposes and amounts covered by this Agreement.

**4. COMPENSATION AND PAYMENT:**

**a. Fee:** The Contractor’s sole compensation for its services rendered and costs incurred if all Renewal Terms are effected, under the Agreement is Three Million Three Hundred Nine Thousand Two Hundred Dollars (\$3,309,200.00) and annually shall not exceed the budget for the corresponding Annual Term to be paid based on monthly invoicing as described in this Paragraph 4. Amounts billed may not exceed the rates for each audit set forth in **Exhibit B**.

**b. Reimbursable Expenses:** All of the Contractor’s expenses are contained in the rates budget in Exhibit B.

**c. Invoicing:** Contractor shall provide the City with monthly invoices in a format and with a level of detail acceptable to the City including all supporting documentation required by the

City. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

**d. Maximum Contract Amount:**

(1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation if all renewal terms are effected will not exceed Three Million Three Hundred Nine Thousand Two Hundred Dollars (\$3,309,200.00) (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 Contractor beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A** are performed at Contractor'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 this 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. STATUS OF CONTRACTOR:** The Contractor is an independent contractor retained to perform professional or technical 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.

**6. TERMINATION:**

**a.** The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon twenty (20) days prior written notice to the Contractor. However, nothing gives the Contractor the right to perform services under the Agreement beyond the time when its services become unsatisfactory to the Denver Auditor and notice of termination is given to Contractor by the City.

**b.** Notwithstanding the preceding paragraph, the City may terminate the Agreement if the Contractor or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement 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 Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

**c.** The Contractor may resign and terminate this Agreement upon thirty (30) days prior written notice to the City at any time in accordance with the laws, regulations, and Professional Standards applicable to the type of services provided hereunder. The Contractor may also terminate this Agreement, prior to beginning an Annual Renewal Term, upon written notice to the City if the Contractor reasonably determines that it is unable to perform the services described in this Agreement or SOW hereunder in accordance with applicable professional standards, laws, or regulations. If the Contractor elects to terminate its services for any reason provided for in this Agreement, the engagement will be deemed to cease upon written notification of termination, even if the Contractor has not completed its report. If the Agreement is terminated, the City shall compensate Contractor for that portion of services performed and expenses at the corresponding rates shown on Exhibit B incurred through the effective date of termination. Those provisions in this Agreement and any applicable SOW that, by their very nature, are intended to survive termination shall survive after the termination of the Agreement or applicable SOW, including, but not limited to, the parties' obligations related to any of the following provisions: indemnification, confidentiality, dispute resolution, payment and reimbursement obligations, limitation on use or reliance by third parties.

**d.** Upon termination of the Agreement, with or without cause, the Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the Agreement.

**e.** If the Agreement is terminated, the City is entitled to and will take possession of all City owned materials, equipment, tools and facilities that are in the Contractor's possession, custody, or control by whatever method the City deems expedient. The Contractor shall deliver to the City all final Deliverables in any form that were prepared under the Agreement that have been paid for by the City. These documents and materials are the property of the City. In the event Contractor is terminated before the engagement is complete, Contractor shall provide access to its workpapers to the firm who is selected by the City to replace Contractor, upon

execution of a successor auditor access letter, in order to complete the audit. The City shall not receive copies of the Contractor's audit workpapers.

7. **EXAMINATION OF RECORDS:** The Contractor agrees that any duly authorized representative of the City, including the Manager of Finance and the Denver Auditor upon reasonable written notice to the Contractor shall, until the expiration of three (3) years after termination of the audit services under this Agreement have access to and the right to examine copies of the records of the Contractor reasonably necessary to substantiate the Contractor's invoices to and payments from the City for services performed hereunder. Access to working papers shall be provided upon request to representatives of the United States General Accounting Office or other appropriate government audit staffs under the supervision of the Contractor and at a location designated by the Contractor. The City agrees that the Contractor's audit work papers are the property of the Contractor, that the work papers include information that is proprietary (for example, audit programs and the Contractor's audit process), and that it would be inappropriate for the City to have access to certain of the Contractor's work papers because, among other things, such access may provide the City information as to how the audit is conducted by the Contractor and could thus compromise, or be viewed as compromising, an audit or the audit process. However, the City and the Contractor both acknowledge and agree that the Contractor's work papers may include information, prepared by the City or by the Contractor which may be useful to the City in responding, for example, to questions raised by the cognizant audit agency as a result of its review or audit of the City's financial statements. The Contractor agrees that if the City requests access to such information in the Contractor's work papers as to the composition of particular accounts contained in the City's financial statements or the City's accounting policies or practices (as opposed to information about the Contractor's administrative materials, audit process or the nature and extent of audit tests), that the City cannot otherwise obtain from its own files, the Contractor shall, upon reasonable notice and with representatives of the Contractor present, provide the City access to such information in the Contractor's work papers that Contractor does not consider proprietary to the extent that such access would not impair Contractor's independence, in Contractor's sole discretion. The Contractor agrees to make working papers available either to the City or successor contractors, upon request or approval of the City and to the extent that such successor contractor has signed an access letter in a form acceptable to

Contractor, in its sole discretion. In addition, the Contractor shall respond to the reasonable inquiries of the Denver Auditor.

In the event the Contractor is required pursuant to valid subpoena or other legal process to produce its work papers related to the audit services performed hereunder in any judicial or administrative proceeding, the City shall reimburse the Contractor for its professional time and expenses incurred in responding to such request, but specifically excluding any attorney's fees or costs or any other third party fees or costs, and only to the extent that funds are available under the Maximum Contract Amount specified in Subparagraph 4(d) hereof.

Nothing in this Article or Agreement shall be deemed to waive or modify any rights of privilege available at law to the City. If Contractor is served or otherwise receives a subpoena for Contractor's records, reports, work papers related to the audit services performed under this Agreement, the Contractor shall deliver written notice of each and every such subpoena to the Auditor and a copy to the City Attorney within ten (10) business days after the date of receipt or service of the subpoena.

Any records or documents in the custody of the Contractor that are available to the City under this Paragraph 7 may be redacted by the Contractor only to the extent necessary to protect the Contractor's proprietary and confidential information contained therein and to avoid an invasion of privacy.

**8. WHEN RIGHTS AND REMEDIES NOT WAIVED:** In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Contractor. No payment for services, 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, unless such intent is made clear in a writing signed by both parties. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

**9. 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, including 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 require 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. 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 may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the certificate of insurance. 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 additional certificates of insurance and endorsements.

**c. Additional Insureds:** For commercial general liability, excess/umbrella liability (if required), auto liability, Contractor's and subcontractor's insurer 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, with the exception of Professional Liability and Technology Errors and Omissions - Cyber, Contractor's insurer shall waive subrogation rights against the City.

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

f. **Workers' Compensation/Employer's Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

g. **Commercial General Liability:** Contractor shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate.

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

i. **Professional Liability (Errors & Omissions):** Contractor shall maintain minimum limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. The policy shall be kept in force, or a Tail policy placed, for three (3) years for all contracts.

j. **Technology Errors & Omissions including Cyber Liability:** Contractor shall maintain Technology Errors and Omissions insurance including cyber liability, network security, privacy liability and product failure coverage with minimum limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy shall be kept in force, or a Tail policy placed, for three (3) years.

**10. DEFENSE AND INDEMNIFICATION:**

a. Under the Charter of the City and County of Denver Article VI, the City Attorney is the only officer which may provide for the legal representation of the City. It is fundamental



that only the City Attorney manage the legal representation and that the Contractor has no obligation to manage the representation or legal defense of the City. Additionally, the American Institute of Certified Public Accountants, Inc. asserts at 1.228.020 an “Independence Rule” that their member must be free of any and all influences that might compromise objective judgment which could be tainted if required without adequate safeguards to pay for the wrongdoings of a client. The requirements of both parties are intended to be complied with in this Section 10. Contractor agrees to indemnify and hold harmless City and its appointed and elected officials, agents and employees for, from and against all liabilities, claims, and damages to the City (“Claims”) arising out of or resulting from any negligent or intentionally tortious acts or omissions in connection with the professional services performed under this Agreement, to the extent caused by Contractor, its employees, agents, or subcontractors. Contractor is not obligated under this section to indemnify City for the negligent acts or willful misconduct of City or any of its officials, agents, or employees.

**b.** If arising out of or resulting from Contractor’s negligent or intentionally tortious acts or omissions, Contractor’s duty to pay for the defense and pay to 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 pay to defend and pay to indemnify City shall arise even if City is the only party sued by claimant.

**c.** If arising out of or resulting from Contractor’s negligent or intentionally tortious acts or omissions, Contractor shall pay for the defense of 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 payment in the nature of 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.** In meeting the Contractor’s payment obligations under this Section 10, the City will not object to the Contractor seeking to satisfy the obligation through insurance in whole or in part. Insurance coverage requirements specified in this Agreement in no way lessen or limit the liability of the Contractor under the terms of this Section 10 payment 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. **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.

12. **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 Denver Auditor'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 Denver Auditor 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. Notwithstanding the foregoing, Contractor may utilize personnel from a Contractor subsidiary to assist in the audit, but Contractor will remain responsible for and supervise all such services and the City shall have no liability or financial obligation directly to the Contractor subsidiaries.

13. **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.*

14. **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.

15. **NO THIRD PARTY BENEFICIARY OR RELIANCE**: 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. The Contractor will perform the professional services provided in connection with this Agreement or any applicable SOW solely for the benefit and use of the City. The final Deliverable audit report shall be posted to the City's website and may be viewed by the public; therefore, Contractor shall include a disclaimer drafted by the Contractor indicating that the report is accurate only as of its date and that Contractor does not authorize reliance by any third parties.

**16. 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.

**17. 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.

**18. 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.

**19. 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, with a copy of any such notice to:

BDO USA, LLP  
Attention Office of General Counsel,  
330 N. Wabash Avenue, Suite 3200,  
Chicago, Illinois 60611

and if to the City at:

Denver Auditor or Designee  
201 W. Colfax Ave., Dep't. 705  
Denver, CO 80202

With a copy of any such notice to:

Denver City Attorney's Office  
1437 Bannock St., 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.

**20. NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION 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:
  - i. At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future..
  - ii. It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

iii. It will 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 a worker without authorization to perform work under this Agreement.

iv. It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this 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.

v. If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, 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 worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

vi. It will comply with a 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.

c. The Contractor is liable for any violations as provided in the Certification Ordinance. If the Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If this Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any 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 the Contractor from submitting bids or proposals for future contracts with the City.

**21. 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).

**22. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.

**23. 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.

**24. 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.

**25. 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.

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

**27. INTELLECTUAL PROPERTY RIGHTS:** The City and Contractor intend that all property rights to any and all final Deliverables created by the Contractor and paid for by the City pursuant to this Agreement, (collectively, “Materials”), shall belong to the City. The Contractor shall own its workpapers but as provided herein shall make such workpapers accessible to successor contractors upon execution of a successor auditor access letter. The Contractor shall disclose all such items to the City.

**28. 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.

**29. ADVERTISING AND PUBLIC DISCLOSURE:** The Contractor shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Contractor’s advertising or public relations materials without first obtaining the written approval of the Denver Auditor. 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 Contractor shall notify the Denver Auditor in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

**30. CONFIDENTIAL INFORMATION:**

**A. City Information:** Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, Contractor may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. Contractor agrees that all Proprietary Data or confidential information provided or otherwise disclosed by the City to Contractor shall be held in confidence and used only in the performance of its obligations under this Agreement. Contractor shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent Contractor would to protect its own proprietary or confidential data. “Proprietary Data” shall mean any materials or information which may be designated or marked “Proprietary” or “Confidential”, or which would not be documents

subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to Contractor by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

**B. Use of Proprietary Data or Confidential Information:**

(i) Except as expressly provided by the terms of this Agreement, Contractor agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to (other than in connection with supervisory examinations by regulatory authorities with jurisdiction or peer reviews and without breaching any legal or regulatory requirement), distribute, allow interactive rights to, or otherwise make available the Proprietary Data or confidential information or any part thereof to any other person, party or entity in any form of media for any purpose other than performing its obligations under this Agreement. Contractor further acknowledges that by providing this Proprietary Data of confidential information, the City is not granting to Contractor any right or license to use such data except as provided in this Agreement. Contractor further agrees not to disclose or distribute to any other party, in whole or in part, the Proprietary Data or confidential information without written authorization from the Auditor.

(ii) Contractor agrees, with respect to the Proprietary Data and confidential information, that: (1) Contractor shall not copy, recreate, reverse engineer or decompile such data, in whole or in part, unless authorized in writing by the Auditor; (2) Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; and (3) Contractor shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City except for (i) copies in working paper files retained to comply with a Contractor's professional or legal obligations and (ii) such Confidential Information retained in accordance with Contractor's normal back-up data storage procedures, which data and information so retained shall remain subject to the Contractor's confidentiality obligations contained herein.

**C. Employees and Sub-contractors:** Contractor will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement. Contractor shall not disclose Proprietary Data or confidential information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality



provisions at least as strict as those contained in this Agreement.

**D. Representation Letter:** As required by GAAS, Contractor will request certain written representations from the City at the close of our audit to confirm oral representations given to us and to indicate and document the continuing appropriateness of such representations and reduce the possibility of misunderstanding concerning matters that are the subject of the representations. If discrepancies are found by Contractor in the information the City provides to the Contractor, Contractor agrees to promptly contact the City about such discrepancies.

**E. Contractor's Information:** Contractor shall retain the right to reuse the ideas, concepts, know-how, and techniques derived from the rendering of the Services so long as it does not require the disclosure of any of the City's confidential information. The Contractor shall be entitled to all protections afforded under State and Federal statutory or common law with respect to any report, computer program (source code and object code) or programming and/or material documentation, manual, chart, specification, formula, database architecture, template, system model, copyright, diagram, description, screen display, schematic, blueprint drawing, tape, license, listing, invention, record, development frameworks, code libraries, best practices, general knowledge, skills and experience, or other materials preexisting the execution of this Agreement ("Contractor Intellectual Property"). Unless otherwise specifically stated in this Agreement or any applicable SOW, the reproduction, distribution or transfer, by any means or methods, whether direct or indirect, of any of Contractor's or its agents' Intellectual Property or proprietary information by the City is strictly prohibited. The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, et seq., C.R.S. (2003). In the event of a request to the City for disclosure of such information, the City shall advise Contractor of such request in order to give Contractor the opportunity to object to the disclosure of any of its documents which it marked as proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. Contractor further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of Contractor's intervention to protect and assert its claim of privilege against disclosure under this

Article including but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

**31. EXTERNAL COMPUTING OPTIONS:** The City will not ask the Contractor to use any external commercial services, including but not limited to services for cloud storage, remote control, and/or file sharing options (collectively “External Computing Options”), that are outside of the Contractor’s standard security protocol.

**32. RESTRICTED FEDERAL DATA:** The parties agree that the services are not intended to involve the processing of Restricted Data, defined as data subject to laws, regulations, or government-wide policies that require safeguarding or dissemination controls, including the Federal Acquisition Regulations (“FAR”), the Defense Federal Acquisition Regulation Supplement (“DFARS”), the International Traffic in Arms Regulation (“ITAR”), the Export Administration Regulations (“EAR”), and the Arms Export Control Act (“AECA”). For clarity, and without limiting the foregoing, controlled unclassified information (“CUI”) shall be included in the definition of Restricted Data. The City shall not provide or otherwise make available Restricted Data to the Contractor unless expressly agreed to in advance in writing by the Contractor. If the City becomes aware that any known or suspected Restricted Data will be or has been disclosed to the Contractor by the City or otherwise in connection with the Services, the City will immediately notify the Contractor in writing to [regulatedgovtdata@bdo.com](mailto:regulatedgovtdata@bdo.com) and will cease any further transfer of such data unless and until the Contractor expressly agrees in writing. The City will fully cooperate with the Contractor in the investigation of and response to any known or suspected Restricted Data that the City has disclosed to the Contractor notwithstanding the foregoing. The City further agrees that it will be responsible for all fees, costs, and expenses associated with processing of Restricted Data, including without limitation additional fees, costs, and expenses related to compliance with obligations with respect to such Restricted Data.

**33. 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.

**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, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement, including exhibits thereto,

or a signed amendment 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.

**35. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** Contractor shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

**36. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** The parties consent to the use of electronic signatures. The Agreement, and any other documents requiring a signature under the Agreement, may be signed electronically 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.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.**

**Signatures follow.**

**Contract Control Number:** AUDIT-202158986-[[ This Amendment Number ]]  
**Contractor Name:** BDO USA LLP

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

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:** AUDIT-202158986-[[ This Amendment Number ]]  
**Contractor Name:** BDO USA LLP

By: \_\_\_\_\_  
DocuSigned by:  
*Randy Watkins*  
A126503B58CD4AD...

Name: Randy Watkins  
(please print)

Title: Partner  
(please print)

ATTEST: [if required]

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

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

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

## EXHIBIT A - SCOPE OF WORK (OR "SOW")

### Objective and Scope of the Audit

As agreed, BDO USA, LLP ("BDO" or "we") will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the City and County of Denver, Colorado (the "City" or "you") as of and for the year ending **December 31, 2021**. The financial statements will comprise the financial information of the City and its subsidiaries or other affiliates (collectively referred to throughout the rest of this SOW as the "City"), as required under the applicable financial reporting framework, which as of the date of this SOW are:

- Gateway Village General Improvement District
- Denver 14th Street General Improvement District
- RiNo General Improvement District
- Cherry Creek North Business Improvement District
- Cherry Creek Subarea Business Improvement District
- Colfax Business Improvement District
- Downtown Denver Business Improvement District
- Old South Gaylord Business Improvement District
- West Colfax Business Improvement District
- Federal Boulevard Business Improvement District
- Bluebird Business Improvement District
- Colfax-Mayfair Business Improvement District
- Five Points Business Improvement District
- Santa Fe Business Improvement District
- RiNo Business Improvement District
- Caring for Denver Foundation
- Prosperity Denver Fund
- Denver Convention Center Hotel Authority
- Denver Downtown Development Authority
- Denver Preschool Program, Inc.
- Denver Urban Renewal Authority
- National Western Center Authority
- Denver Employees Retirement Plan

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, to issue an auditor's report that includes our opinion, and to report on the fairness of the supplementary information referred to below when considered in relation to the basic financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America ("GAAS") will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

## EXHIBIT A - SCOPE OF WORK

The objectives of our audit also includes reporting on the City's:

- Internal control related to the financial statements and compliance with federal statutes, regulations, and the terms and conditions of the federal awards, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and issuance of an opinion on whether the City complied with federal statutes, regulations, and the terms and conditions of the federal awards that could have a direct and material effect on each major program in accordance with the Uniform Guidance.

Accounting standards generally accepted in the United States of America provide for certain required supplementary information ("RSI"), such as management's discussion and analysis ("MD&A"), to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, which considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with GAAS. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtain during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required and will be subjected to certain limited procedures, but will not be audited:

- Management's Discussion and Analysis
- Budgetary comparison information for the General Fund and any major special revenue funds
- Pension and other post-employment benefit ("OPEB") information

Also, the supplementary information accompanying the basic financial statements, as listed below, will be subjected to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with GAAS, and our auditor's report will provide an opinion on it in relation to the basic financial statements as a whole.

- Schedule of Expenditures of Federal Awards
- Combining and individual fund financial statements and schedules

Also, the supplementary information accompanying the basic financial statements, as listed below, will not be subjected to the auditing procedures applied in our audit of the basic financial statements, and our auditor's report will not provide an opinion or any assurance on such supplementary information.

- Introductory Section

## EXHIBIT A - SCOPE OF WORK

- Statistical Section

### Responsibilities of BDO

We will conduct our audit in accordance with GAAS. Note that BDO may utilize personnel from a BDO subsidiary to assist in the audit, but BDO will remain responsible for and supervise all such services. As part of an audit in accordance with GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a reasonable basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we will express no such opinion. An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses in internal control. However, we will communicate to you and those charged with governance in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we identify during our audit.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS.

Our audit will also be conducted in accordance with the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and Title 2 U.S. *Code of Federal Regulations* ("CFR") Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* ("Uniform Guidance" or "UG"), and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such an opinion and to render the required reports. 6The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable federal statutes, regulations, and the terms and conditions of the federal awards that may have a direct and material effect on each of its major programs. Our procedures will consist of the applicable



## EXHIBIT A - SCOPE OF WORK

procedures described in the Office of Management and Budget's ("OMB") Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. As required by the Uniform Guidance, our audit will include tests of transactions related to major federal award programs for compliance with applicable federal statutes, regulations, and the terms and conditions of federal awards. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to major programs in our report on compliance issued pursuant to the Uniform Guidance.

Our work will be based primarily upon selected tests of evidence supporting the amounts and disclosures in the financial statements and, therefore, will not include a detailed check of all of the City's transactions for the period. Also, an audit is not designed to detect errors or fraud or violations of federal statutes and regulations that are immaterial to the financial statements or major programs. However, we will inform you of any material errors or fraud that come to our attention. We will also inform you of possible illegal acts that come to our attention unless they are clearly inconsequential. We will also include such matters in the reports required for an audit performed under the Uniform Guidance. In addition, during the course of our audit, financial statement misstatements relating to accounts or disclosures may be identified, either through our audit procedures or through communication by your employees to us, and we will bring these misstatements to your attention as proposed adjustments. At the conclusion of our audit we will communicate to those charged with governance (as defined below) all uncorrected misstatements. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

The term "those charged with governance" is defined as the person(s) with responsibility for overseeing the strategic direction of the City and obligations related to the accountability of the City, including overseeing the financial reporting process. For the City, we agree that the Audit Committee meets that definition.

We will perform test of controls, as required by the Uniform Guidance, to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with each direct and material compliance requirement applicable to each of the City's major federal award programs. However, our tests will be less in scope than would be necessary to render an opinion on these controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

We are also responsible for communicating with those charged with governance what our responsibilities are under GAAS, an overview of the planned scope and timing of the audit, and significant findings from the audit.

At your request, we will not audit the financial statements of the following listed component units. You have engaged the firms listed alongside each component unit (the "component auditors") to perform a similar audit of each component unit, and have arranged for them to furnish us with their report on the audit of its financial statements. To ensure those financial statements will be in form and detail suitable for inclusion in the financial statements and the component auditor's report will be in form and detail suitable for us to refer to in our report on the financial statements, we may discuss significant accounting and reporting

**EXHIBIT A - SCOPE OF WORK**

matters with component unit auditor and the component unit's management. You will authorize the component auditors and the management of each component unit to furnish us with such cooperation and communication as we may consider desirable for those purposes.

<b>Component Unit</b>	<b>Component Auditor</b>
Downtown Denver Business Improvement District	Kundinger Corder & Engle, P.C.
Cherry Creek North Business Improvement District No. 1	Fiscal Focus Partners, LLC
Denver Preschool Program, Inc.	GC2 Professional Services, PC
Denver Convention Center Hotel Authority	RubinBrown
RiNo Business Improvement District	John Cutler & Associates
National Western Center Authority	Wipfli LLP
Prosperity Denver Fund	Kundinger Corder & Engle, P.C.
Colfax Business Improvement District	Dazzio & Associates, PC
Denver 14 <sup>th</sup> Street General Improvement District	Wipfli LLP
Gateway Village General Improvement District	Wipfli LLP
Denver Employees Retirement Plan	CliftonLarsonAllen LLP
Caring for Denver Foundation	BKD LLP
Denver Urban Renewal Authority	BKD LLP
West Colfax Business Improvement District	Simmons & Wheeler, PC
Bluebird Business Improvement District	Simmons & Wheeler, PC

**Responsibilities of Management and Identification of the Applicable Financial Reporting Framework**

Our audit will be conducted on the basis that you acknowledge and understand that you have responsibility (1) for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America; (2) for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements and relevant to federal award programs that are free from material misstatement, whether due to error or fraud; (3) for identifying and ensuring that the City complies with the laws and regulations applicable to its activities; and (4) to provide us with access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters, additional information we may request for the purpose of the audit, and unrestricted access to persons within the City from whom the auditor determines it is necessary to obtain audit evidence.

Management is also responsible for preparation of the schedule of federal expenditures of federal awards, including the notes, noncash assistance received and other required information, in accordance with the requirements of the Uniform Guidance. Management is responsible for identifying all federal awards expended during the period including federal awards and funding increments received prior to December 26, 2014, and those received subsequent to December 26, 2014 in accordance with the audit requirements of the Uniform

## EXHIBIT A - SCOPE OF WORK

Guidance. You acknowledge and understand your responsibility for the preparation of all supplementary information, including the schedule of expenditures of federal awards, in accordance with the applicable criteria. Management is responsible for identifying all federal awards received and understanding and complying with the compliance requirements, in accordance with the Uniform Guidance. Management is also responsible for (1) establishing and maintaining effective internal control, including internal control over compliance and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met, (2) compliance with federal statutes, regulations, and the terms and conditions of federal awards, (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements, and (4) ensuring that management and financial information is reliable and properly reported. You also agree to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information. You also agree to present the supplementary information with the audited financial statements, or, if the supplementary information will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance of the supplementary information and our report thereon.

Management's responsibilities also include identifying and informing us of significant contractor relationships in which the contractor is responsible for program compliance and for the accuracy and completeness of that information.

Management is responsible for adjusting the financial statements to correct material misstatements relating to accounts or disclosures, after evaluating their propriety based on a review of both the applicable authoritative literature and the underlying supporting evidence from the City's files; or otherwise concluding and confirming in a representation letter (as further described below) provided to us at the conclusion of our audit that the effects of any uncorrected misstatements are, both individually and in the aggregate, immaterial to the financial statements taken as a whole. Additionally, as required by the Uniform Guidance, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

As required by GAAS, we will request certain written representations from management at the close of our audit to confirm oral representations given to us and to indicate and document the continuing appropriateness of such representations and reduce the possibility of misunderstanding concerning matters that are the subject of the representations. Because of the importance of management's representations to an effective audit, the City agrees to be responsible for and release BDO and its partners, principals, employees, affiliates, contractors, agents, and Permitted Assignees (as defined here under "Assignment") (collectively, the "BDO Group") from and against all liability and costs relating to our services rendered under this SOW attributable to any knowing misrepresentations by management.

Management is also responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the City involving (a) management, (b) employees who have significant roles in internal control, and (c) others where the fraud could have a direct and material effect on the financial statements and/or schedule of expenditures of federal awards. Your responsibilities include

## EXHIBIT A - SCOPE OF WORK

informing us of your knowledge of any allegations of fraud or suspected fraud affecting the City received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the City complies with applicable federal statutes, regulations, and the terms and conditions of the federal awards. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of federal statutes, regulations and the terms and conditions of the federal awards, or abuse that we report.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying to us, previous financial audit attestation engagements, performance audits, or other studies related to our audit objectives. This responsibility includes communicating to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

At the conclusion of the engagement, we will complete the appropriate sections of and electronically certify the Data Collection Form that summarizes our audit findings. We will provide a final copy of our reports in a PDF file to the City; however, it is management's responsibility to upload the PDF version of the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) and complete the appropriate sections of the Data Collection Form. Management is responsible for electronically certifying the Data Collection Form and electronically submitting the completed Data Collection Form to the Federal Audit Clearinghouse ("FAC"). The financial reporting package must be text searchable, unencrypted, and unlocked to be accepted by the FAC. The Data Collection Form and the reporting package must be submitted electronically within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the oversight agency for audit. Both BDO and management are responsible for ensuring that in their respective parts of the reporting package there is no protected personally identifiable information. We understand that we must make copies of the Data Collection Form and reporting package available for public inspection.

### **Expected Form and Content of the Auditor's Report**

At the conclusion of our audit, we will submit to you a report, based on our audit and the report of the component auditors, containing our opinion as to whether the financial statements, taken as a whole, are fairly presented based on accounting principles generally accepted in the United States of America. If, during the course of our work, it appears for any reason that we will not be in a position to render an unmodified opinion on the financial statements or the Uniform Guidance compliance, or that our report will require an Emphasis of Matter or Other Matter paragraph, we will discuss this with you. It is possible that, because of unexpected circumstances, we may determine that we cannot render a report or otherwise complete the engagement. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or decline

## EXHIBIT A - SCOPE OF WORK

to issue a report as a result of the engagement. If, in our professional judgment, the circumstances require, we may resign from the engagement prior to completion.

The reports on internal control and compliance will each include a statement that the purpose of these reports is solely to describe the scope of our testing of internal control and compliance and the results of that testing based on the requirements of *Government Auditing Standards* (“GAS”) and the Uniform Guidance and are not suitable for any other purpose.

### **Client Acceptance Matters**

BDO is accepting the Government as a client in reliance on information obtained during the course of our client acceptance procedures. **Name of engagement partner** has been assigned the role of engagement partner and is responsible for directing the engagement and issuing the appropriate report on the Government’s financial statements.

### **Use of Internal Auditor(s) in a Direct Assistance Capacity**

You agree that the internal auditor(s) providing direct assistance to us during our audit will be allowed to follow our instructions, and that you will not intervene in the work the internal auditor(s) perform(s) for us.

### **Email Communication**

BDO and the City shall use the BDO secure portal for delivery of confidential information in connection with the services we are being engaged to perform under this Agreement.

### **Use of BDO Advantage Extraction Scripts or Services**

With your approval, BDO may use BDO Advantage Extraction Scripts or Services to extract certain general ledger and subledger information from your financial accounting system to facilitate performance of our services. The BDO Advantage Extraction Scripts or Services and all information, content, materials, products (including software), and other services included in or otherwise made available to you through the BDO Advantage Extraction Scripts or Services are provided by BDO on an “as is” and “as available” basis, unless otherwise specified in writing. BDO makes no representations or warranties of any kind, expressed or implied, as to the operation of the BDO Advantage Extraction Scripts or Services, or the information, content, materials, products (including software), or other services included in or otherwise made available to you through the BDO Advantage Extraction Scripts or Services, unless otherwise specified in writing. You expressly agree that your use of the BDO Advantage Extraction Scripts or Services is at your sole risk, and you release the BDO Group from any liability connected therewith. BDO shall not share or sell any of the extracted information to third parties, and BDO shall use such information solely to facilitate performance of the services described in this SOW.

## **EXHIBIT A - SCOPE OF WORK**

### **Ownership of Working Papers**

The working papers prepared in conjunction with our audit are the property of BDO, constitute confidential, proprietary, and trade secret information, and will be retained by us in accordance with BDO's policies, procedures, and applicable laws.

However, pursuant to authority given by law or regulation, we may be requested to make certain working papers available to the City's oversight agency, or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such working papers will be provided under the supervision of BDO personnel and at a location designated by BDO. Furthermore, upon request, we may provide photocopies of selected working papers to the aforementioned parties. These parties may intend or decide to distribute the photocopies of information contained therein to others, including other governmental agencies. If a working paper access request is received from a regulator, we will ask you and the regulator to acknowledge, in writing, the conditions under which we will provide such access; and you agree to provide such written acknowledgment.

### **Reproduction of Auditor's Report**

If the City plans any reproduction or publication of a document that includes our report, or any portion of it, and where the report is assembled differently from any paper or electronic version that we have previously reviewed and approved for the City (e.g., by the addition of other financial statements and/or accompanying information that you have produced), a copy of the entire document in its final form should be submitted to us in sufficient time for our review and written approval before printing. You also agree to provide us with a copy of the final reproduced material for our written approval before it is distributed. If, in our professional judgment, the circumstances require, we may withhold our written approval. The parties agree that notwithstanding the foregoing, BDO recognizes that the City shall post the audit report as provided to the City on the City's website for public access and may refer persons to the website.

### **Posting of Auditor's Report and Financial Statements on Your Website**

The City plans to post an electronic version of the financial statements and auditor's report on your website, you will ensure that there are no differences in content between the electronic version of the financial statements and auditor's report on your website and the signed version of the financial statements and auditor's report provided to management by BDO. You also agree to post the report as provided by the BDO Group. The City shall not post any other version of the report. BDO shall not be liable for any version of the report the City posts in violation of this paragraph.

### **Auditor Involvement with Exempt Offering Documents' (AU Section 945).**

The City will not involve BDO in future offerings pursuant to AU Section 945, 'Auditor Involvement with Exempt Offering Documents' (AU Section 945). In the event BDO becomes involved pursuant to AU Section 945, the City will submit copies of the document(s) to us in

## EXHIBIT A - SCOPE OF WORK

sufficient time for our review and written approval. If, in our professional judgment, the circumstances require, we may withhold or condition our written approval.

### **Communications With Predecessor Auditors**

GAAS requires that we contact BKD, LLP to review their working papers and discuss their audit of prior years' financial statements. It will be necessary that you authorize in writing BKD to communicate with us for that purpose.

### **Availability of Records and Personnel**

You agree that all records, documentation, and information we request in connection with our audit will be made available to us (including those pertaining to related parties), that all material information will be disclosed to us, and that we will have the full cooperation of, and unrestricted access to, your personnel during the course of the engagement.

You also agree to ensure that any third-party valuation reports that you provide to us to support amounts or disclosures in the financial statements (a) indicate the purpose for which they were intended, which is consistent with your actual use of such reports; and (b) do not contain any restrictive language that would preclude us from using such reports as audit evidence.

### **Assistance by Your Personnel and Internet Access**

We also ask that your personnel prepare various schedules and analyses for our staff. However, except as otherwise noted by us, no personal information other than names related to City employees and/or customers should be provided to us. In addition, we ask that you provide high-speed Internet access to our engagement team, if practicable, while working on the City's premises. This assistance will serve to facilitate the progress of our work and minimize costs to you.

### **Peer Review Reports**

*Government Auditing Standards* requires that we provide you with a copy of our most recent quality control review report. Our latest peer review report accompanies this letter.

### **Other Services**

We are always available to meet with you and other executives at various times throughout the year to discuss current business, operational, accounting, and auditing matters affecting the City. Whenever you feel such meetings are desirable, please let us know. We are also prepared to provide services to assist you in any of these areas. We will also be pleased, at your request, to attend governing board meetings. No additional fees may be charged for other services beyond those set forth in paragraph 4 of the Agreement.

### **Independence**

Professional and certain regulatory standards require us to be independent, in both fact and appearance, with respect to the City in the performance of our services. Any discussions that

## EXHIBIT A - SCOPE OF WORK

you have with personnel of BDO regarding employment could pose a threat to our independence. Therefore, we request that you inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence.

### **Non-CPA Owner Notice Requirement**

BDO is owned by professionals who hold CPA licenses as well as by professionals who are not licensed CPAs. Therefore, depending on the nature of the services being provided, non-CPA owners may be involved in providing certain services hereunder.

### **Miscellaneous**

The Agreement and this SOW sets forth the entire agreement between the parties with respect to the subject matter herein, superseding all prior agreements, negotiations, or understandings, whether oral or written, with respect to the subject matter herein. This SOW may not be changed, modified, or waived in whole or part except by an instrument in writing signed by both parties. This SOW is intended to cover only the services specified herein, although we look forward to many more years of pleasant association with the City. This engagement is a separate and discrete event, and any future services will be covered by a separate SOW to provide services.

Many banks have engaged a third party to electronically process cash or debt audit confirmation requests, and certain of those banks have mandated the use of this service. Further, such third party confirmation processors also provide for the electronic (and manual) processing of other confirmation types (e.g., legal, accounts receivable, and accounts payable). To the extent applicable, the City hereby authorizes BDO to participate in such confirmation processes, including through the third party's website (e.g., by entering the City's bank account information to initiate the process and then accessing the bank's confirmation response), and agrees that the BDO Group shall have no liability in connection therewith.

Whenever possible, each provision of this SOW shall be interpreted in such a manner as to be effective and valid under applicable laws, regulations, professional standards, or related published interpretations (including, without limitation, the independence rules of the American Institute of Certified Public Accountants, Securities and Exchange Commission, Public Company Accounting Oversight Board, and Government Auditing Standards), but if any provision of this SOW shall be deemed void, prohibited, invalid, or otherwise unenforceable in whole or in part for any reason under such applicable laws, regulations, professional standards, published interpretations, or any reason whatsoever, such provisions or portion(s) thereof shall be ineffective only to the extent of such prohibition, invalidity, or unenforceability and shall be amended to the minimum extent required to make the provision enforceable, and such revised provision shall be made a part of this SOW as if it was specifically set forth herein. Furthermore, the provisions of the foregoing sentence shall not invalidate the remainder of such provision or the other provisions of this SOW, which shall remain in full force and effect.

The City's Auditor's signature below represents that, subject to the terms of the Agreement, it has the full power and authority to enter into this SOW on behalf of the City and any City



**EXHIBIT A - SCOPE OF WORK**

subsidiary or other affiliate that may rely on the services provided hereunder, or that it shall ensure that each such subsidiary or other affiliate agrees to be bound to the terms hereof.

This SOW may be transmitted in electronic format and shall not be denied legal effect solely because it was formed or transmitted, in whole or in part, by electronic record; however, this SOW must then remain capable of being retained and accurately reproduced, from time to time, by electronic record by the parties to this SOW and all other persons or entities required by law. An electronically transmitted signature to this SOW will be deemed an acceptable original for purposes of consummating this SOW and binding the party providing such electronic signature.

Acknowledged and Agreed:

CITY AND COUNTY OF DENVER

BDO USA, LLP

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

## Exhibit B

## Total All-Inclusive Maximum Price

Audit Program			2021	2022	2023	2024	2025
Comprehensive Report	Annual	Financial	\$489,500	\$504,100	\$519,200	\$534,700	\$550,700
Single Audit (assume 10 programs)			\$134,000	\$138,000	\$142,100	\$146,300	\$150,600
% Increase Per Year				3%	3%	3%	3%

# Rates and Anticipated Hours by Staff Level

Audit Program	Partner		Director		Manager		Senior		Staff	
	Hours	Rate	Hours	Rate	Hours	Rate	Hours	Rate	Hours	Rate
Comprehensive Annual Financial Report	335	\$315	460	\$210	525	\$150	745	\$120	1435	\$83
Single Audit (10 Programs)	100	\$315	125	\$210	125	\$150	240	\$120	345	\$83

## Assumptions and Other Considerations

### OUR INVESTMENT IN THE CITY MEANS:

- ▶ BDO is willing to invest in our long-term business relationship with the City. Accordingly, we will absorb certain service and non-recurring costs, including working with you to prepare for the audit services.
- ▶ We will schedule quarterly update meetings with you throughout the year.
- ▶ We will provide technical updates for your finance team.

### FEE ASSUMPTIONS

**Our fee estimate is based on the following assumptions:**

- ▶ Key documents are provided on the dates agreed and there are no significant delays outside of our control.

- ▶ Your personnel prepare schedules and analyses as requested and are available to assist us as needed.
- ▶ No significant changes occur in the internal accounting controls, accounting systems, key personnel, or structure of the organization.
- ▶ There are no material acquisitions.
- ▶ We guarantee the proposed fees within unless there are significant changes in the City's operations. Any increase in the audit fee will be immediately disclosed. Significant changes are defined as:
  - Changes in key personnel
  - Additional debt issuances
  - Significant capital projects
  - Additional grant requirement resulting in expanded compliance procedures
  - Addition of Major Funds to the basic financial statements
  - Implementation of new GASB Standards

The table below represents the hourly fees for out-of-scope work. BDO will agree with the City, in writing, prior to commencement of such work.

Professional Level	Quoted Hourly Rates	Standard Hourly Rate
Partner	\$315	\$550
Director	\$210	\$360
Manager	\$150	\$255
Senior Associate	\$120	\$220
Staff	\$83	\$160

**EXHIBIT C**

(exhibit follows)



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
06/16/2021

**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).**

<b>PRODUCER</b> Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	<b>CONTACT NAME:</b> PHONE (A/C. No. Ext): (312) 381-1000      FAX (A/C. No.): (312) 381-7007		
	<b>E-MAIL ADDRESS:</b>		
<b>INSURED</b> BDO USA, LLP 5300 Patterson Ave, Suite 100 Attn: Patricia Schrand Grand Rapids, MI 49512 USA	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	INSURER A: National Fire Ins. Co. of Hartford		20478
	INSURER B: American Casualty Co. of Reading PA		20427
	INSURER C: Continental Casualty Company		20443
	INSURER D: The Continental Insurance Company		35289
	INSURER E:		
INSURER F:			

Holder Identifier :

**COVERAGES      CERTIFICATE NUMBER: 570087894181      REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
C	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			6080420687 General Liability	03/31/2021	03/31/2022	EACH OCCURRENCE	\$1,000,000	
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000	
								MED EXP (Any one person)	\$15,000
								PERSONAL & ADV INJURY	\$1,000,000
C	<input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY  <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			6080418759 Automobile	03/31/2021	03/31/2022	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000	
							BODILY INJURY (Per person)		
								BODILY INJURY (Per accident)	
								PROPERTY DAMAGE (Per accident)	
D	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION			6080283511 Umbrella Policy	03/31/2021	03/31/2022	EACH OCCURRENCE	\$10,000,000	
							AGGREGATE	\$10,000,000	
B A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			5085008884 5085008870 Workers' Compensation	03/31/2021 03/31/2021	03/31/2022 03/31/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER		
							E.L. EACH ACCIDENT	\$1,000,000	
								E.L. DISEASE-EA EMPLOYEE	\$1,000,000
								E.L. DISEASE-POLICY LIMIT	\$1,000,000

Certificate No : 570087894181

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

The City and County of Denver, its elected and appointed officials, employees, and volunteers are added as Additional Insured as respects the General Liability and Automobile Liability as required per written contract. Umbrella is a follow form. 30-day notice of cancellation except 10 days for non-payment. General Liability is primary and non-contributory to other insurance available to the certificate holder, but only to the extent required by written contract with the insured. A waiver of subrogation in favor of Additional Insured as respect the General Liability, Auto Liability and workers Compensation pursuant to a written contract.

**CERTIFICATE HOLDER**

**CANCELLATION**

City and County of Denver Office of the Auditor 201 West Colfax, Dept 705 Denver, CO 80202 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  



CNA PARAMOUNT

## General Liability Extension Endorsement

## 1. ADDITIONAL INSUREDS

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **K.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **K.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

**C. Grantor of Franchise**

Any person or organization that has granted a franchise to a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** as grantor of a franchise to the **Named Insured**.

**D. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.



CNA PARAMOUNT

## General Liability Extension Endorsement

### E. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

### F. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

### G. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

### H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls 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, hoistaway 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 covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

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CNA74879XX (1-15)

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Nat'l Fire Ins Co of Hartford

Insured Name: BDO USA, LLP

Policy No: 6080420687

Endorsement No: 1

Effective Date: 03/31/2021





CNA PARAMOUNT

## General Liability Extension Endorsement

### I. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:
  - a. the **Named Insured's** acts or omissions; or
  - b. the acts or omissions of those acting on the **Named Insured's** behalf,
 in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.
2. The coverage granted by this paragraph does not apply to **bodily injury or property damage included within the products-completed operations hazard**.

### J. Vendor

Any person or organization but only with respect to such person or organization's liability for **bodily injury or property damage** arising out of **your products** which are distributed or sold in the regular course of such person or organization's business, provided that:

1. The coverage granted by this paragraph does not apply to:
  - a. **bodily injury or property damage** for which such person or organization is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement unless such liability exists in the absence of the contract or agreement;
  - b. any express warranty unauthorized by the **Named Insured**;
  - c. any physical or chemical change in any product made intentionally by such person or organization;
  - d. repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - e. any failure to make any inspections, adjustments, tests or servicing that such person or organization has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - f. demonstration, installation, servicing or repair operations, except such operations performed at the such person or organization's premises in connection with the sale of a product;
  - g. products which, after distribution or sale by the **Named Insured**, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for such person or organization; or
  - h. **bodily injury or property damage** arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
    - (1) the exceptions contained in Subparagraphs **d.** or **f.** above; or
    - (2) such inspections, adjustments, tests or servicing as such person or organization has agreed with the **Named Insured** to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This Paragraph **J.** does not apply to any insured person or organization, from whom the **Named Insured** has acquired such products, nor to any ingredient, part or container, entering into, accompanying or containing such products.

CNA74879XX (1-15)

Page 4 of 13

Nat'l Fire Ins Co of Hartford

Insured Name: BDO USA, LLP

Policy No: 6080420687  
Endorsement No: 1

Effective Date: 03/31/2021



CNA PARAMOUNT

## General Liability Extension Endorsement

3. This Paragraph J. also does not apply:
- to any vendor specifically scheduled as an additional insured by endorsement to this **Coverage Part**;
  - to any of **your products** for which coverage is excluded by endorsement to this **Coverage Part**; nor
  - if **bodily injury** or **property damage** included within the **products-completed operations hazard** is excluded by endorsement to this **Coverage Part**.

**K. Other Person Or Organization**

Any person or organization who is not an additional insured under Paragraphs A. through J. above. Such additional insured is an **Insured** solely for **bodily injury, property damage or personal and advertising injury** for which such additional insured is liable because of the **Named Insured's** acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

- for **bodily injury, property damage, or personal and advertising injury** arising out of the rendering or failure to render any professional service;
- for **bodily injury or property damage** included within the **products-completed operations hazard**; nor
- who is specifically scheduled as an additional insured on another endorsement to this **Coverage Part**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

- A. The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured.

- B. With respect to persons or organizations that qualify as additional insureds pursuant to paragraph 1.K. of this endorsement, the following sentence is added to the paragraph above:

Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS** the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

**4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following:

**A. BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence, offense or claim** only when the **occurrence, offense or claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

**B. NOTICE OF OCCURRENCE**

CNA74879XX (1-15)

Page 5 of 13

Nat'l Fire Ins Co of Hartford

Insured Name: BDO USA, LLP

Policy No: 6080420687  
Endorsement No: 1

Effective Date: 03/31/2021





General Liability Extension Endorsement

not be deemed to be damages for personal and advertising injury and will not reduce the limits of insurance.

- D. This PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY Provision does not apply if Coverage B -Personal and Advertising Injury Liability is excluded by another endorsement attached to this Coverage Part.

17. PROPERTY DAMAGE – ELEVATORS

- A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended such that the Damage to Your Product Exclusion and subparagraphs (3), (4) and (6) of the Damage to Property Exclusion do not apply to property damage that results from the use of elevators.
B. Solely for the purpose of the coverage provided by this PROPERTY DAMAGE – ELEVATORS Provision, the Other Insurance conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

18. SUPPLEMENTARY PAYMENTS

The section entitled SUPPLEMENTARY PAYMENTS – COVERAGES A AND B is amended as follows:

- A. Paragraph 1.b. is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
B. Paragraph 1.d. is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

19. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the Named Insured unintentionally fails to disclose all existing hazards at the inception date of the Named Insured's Coverage Part, the Insurer will not deny coverage under this Coverage Part because of such failure.

20. WAIVER OF SUBROGATION - BLANKET

Under CONDITIONS, the Transfer Of Rights Of Recovery Against Others To Us Condition is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

- 1. the Named Insured's ongoing operations; or
2. your work included in the products-completed operations hazard.

However, this waiver applies only when the Named Insured has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

- 1. is in effect or becomes effective during the term of this Coverage Part; and
2. was executed prior to the bodily injury, property damage or personal and advertising injury giving rise to the claim.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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**EXTENDED COVERAGE - BA PLUS - FOR HIRED AND NON-OWNED AUTOS**

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

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<b>II. AMENDMENTS TO PHYSICAL DAMAGE COVERAGE</b> <ul style="list-style-type: none"> <li><b>A. Increased Loss of Use Expense</b></li> <li><b>B. Broadened Electronic Equipment Coverage</b></li> </ul>
<b>III. AMENDMENTS TO BUSINESS AUTO CONDITIONS</b> <ul style="list-style-type: none"> <li><b>A. Knowledge of Accident or Loss</b></li> <li><b>B. Knowledge of Documents</b></li> <li><b>C. Waiver of Subrogation</b></li> <li><b>D. Unintentional Failure To Disclose Hazards</b></li> <li><b>E. Primary and Non-Contributory When Required By Contract</b></li> </ul>
<b>IV. AMENDMENTS TO DEFINITIONS</b> <ul style="list-style-type: none"> <li><b>A. Broadened Bodily Injury</b></li> </ul>

**I. AMENDMENTS TO LIABILITY COVERAGE**
**A. Amendments to Who Is An Insured**

Under **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, the paragraph entitled **Who Is An Insured** is amended to add the following:

**1. Majority Owned Corporations**

Any incorporated entity in which you own a majority of the voting stock on the inception date of this Coverage Form is an **insured**, but only if such entity is not an **insured** under any other liability "policy" that provides **auto** coverage.

**2. Newly Acquired Organizations**

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Any organization you newly acquire or form during the policy period, other than a limited liability company, partnership or joint venture, and in which you maintain majority ownership interest is an **insured**, but only if such organization is not an **insured** under any other liability "policy" that provides **auto** coverage. The insurance afforded by this provision:

- a. Is effective on the date of acquisition or formation of the organization, and applies until:
  - (1) The end of the policy period of this Coverage Form; or
  - (2) The next anniversary of this Coverage Form's inception date, whichever is earlier; and
- b. Does not apply to **bodily injury** or **property damage** caused by an **accident** that occurred before you acquired or formed the organization.

### 3. Additional Insureds Required By Written Contract

Any person or organization that you are required by written contract to make an additional insured under this insurance is an **insured**, but only with respect to that person or organization's legal liability for acts or omissions of a person who qualifies as an **insured** for Liability Coverage under **SECTION II - WHO IS AN INSURED** of this Coverage Form.

### 4. Employee-Hired Autos

Any **employee** of yours is an **insured** while operating with your permission an **auto** hired or rented under a contract in that **employee's** name, while performing duties related to the conduct of your business.

With respect to provisions **A.1.** and **A.2.** above, "policy" includes those policies that were in force on the inception date of this Coverage Form, but:

- i. Which are no longer in force; or
- ii. Whose limits have been exhausted.

### B. Increased Loss of Earnings Allowance

Under **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, the paragraph entitled **Coverage Extensions** is amended under **Supplementary Payment** subparagraph **(4)** to delete the \$250. a day limit for loss of earnings and replace it with a \$500. a day limit.

### C. Fellow Employee Coverage

Under **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Fellow Employee**.

## II. AMENDMENTS TO PHYSICAL DAMAGE COVERAGE

### A. Increased Loss of Use Expense

Under **SECTION III – PHYSICAL DAMAGE COVERAGE**, the paragraph entitled **Coverage Extensions** is amended under **Loss of Use Expenses** to delete the maximum of \$600., and replace it with a maximum of \$800.

### B. Broadened Electronic Equipment Coverage

Under **SECTION III – PHYSICAL DAMAGE COVERAGE**, the paragraph entitled **Exclusions** is amended to delete paragraphs **5.a** through **5.d.** in their entirety, and replace them with the following:

- 5. Exclusions **4.c.** and **4.d.** above do not apply to **loss** to any electronic equipment that at the time of **loss** is:

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- a. Permanently installed in or upon a covered **auto**, nor to such equipment's antennas or other accessories used with such equipment. A \$100 deductible applies to this provision, and supersedes any otherwise applicable deductible; or
- b. Designed to be operated solely by use of the power from the **auto's** electrical system and is:
  - (1) Removable from a housing unit which is permanently installed in or upon the covered **auto**;
  - (2) An integral part of the same unit housing any electronic equipment described in paragraphs a. or b.(1) above; or
  - (3) Necessary for the normal operation of the covered **auto** or the monitoring of the covered **auto's** operating system.

### III. AMENDMENTS TO BUSINESS AUTO CONDITIONS

#### A. Knowledge of Accident or Loss

Under **BUSINESS AUTO CONDITIONS**, the **Loss Condition** entitled **Duties In the Event of Accident, Claims, Suit, or Loss** is amended to add the following subparagraph a.(4):

- (4) If your **employees** know of an **accident** or **loss**, this will not mean that you have such knowledge until such **accident** or **loss** is known to a natural person Named Insured, to a partner, executive officer, manager or member of a Named Insured, or to an **employee** designated by any of the above to be your insurance manager.

#### B. Knowledge of Documents

Under **BUSINESS AUTO CONDITIONS**, the **Loss Condition** entitled **Duties In the Event of Accident, Claims, Suit, or Loss** is amended to add the following subparagraph b.(6):

- (6) If your **employees** know of documents concerning a claim or **suit**, this will not mean that you have such knowledge until such documents are known to a natural person Named Insured, to a partner, executive officer, manager or member of a Named Insured, or to an **employee** designated by any of the above to be your insurance manager.

#### C. Waiver of Subrogation

Under **BUSINESS AUTO CONDITIONS**, the **Loss Condition** entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident** or **loss**.

#### D. Unintentional Failure To Disclose Hazards

Under **BUSINESS AUTO CONDITIONS**, the **General Condition** entitled **Concealment, Misrepresentation or Fraud** is amended to add the following:

Your failure to disclose all hazards existing on the inception date of this Coverage Form shall not prejudice you with respect to the coverage provided by this insurance, provided such failure or omission is not intentional.

#### E. Primary and Non-Contributory When Required By Contract

Under **BUSINESS AUTO CONDITIONS**, the **General Condition** entitled **Other Insurance** is amended to add the following:

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Notwithstanding provisions **5.a.** through **5.d.** above, the coverage provided by this Coverage Form shall be on a primary and non-contributory basis when required to be so by a written contract entered into prior to **accident** or **loss**.

**IV. AMENDMENTS TO DEFINITIONS**

**A. Broadened Bodily Injury**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, mental anguish or mental injury sustained by that person which results as a consequence of the physical injury, sickness or disease.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

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**Workers Compensation And Employers Liability Insurance  
Policy Endorsement**

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

**Schedule**

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

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