

## ON-CALL AGREEMENT FOR PROFESSIONAL SERVICES

**THIS AGREEMENT FOR PROFESSIONAL SERVICES (“Agreement”)** is made and entered into as of the date stated on the City’s signature page below (the “**Effective Date**”) by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado acting on behalf of its Department of Aviation (the “**City**”), and **NEW HORIZONS FLOORING CO., LLC**, a Colorado limited liability company (“**Consultant**”) (collectively the “**Parties**”).

### WITNESSETH:

**WHEREAS**, the City owns, operates, and maintains Denver International Airport (“**DEN**”); and

**WHEREAS**, the City desires to obtain professional services for repair, removal, and replacement of flooring surfaces throughout DEN; and

**WHEREAS**, the City has undertaken a competitive process to solicit and receive proposals for such services, and has selected the proposal submitted by Consultant; and

**WHEREAS**, Consultant’s proposal was selected for award of the Flooring, Carpet, Terrazzo Repair/Replace Program (the “**Project**”); and

**WHEREAS**, Consultant is qualified, willing, and able to perform the services, as set forth in this Agreement in a timely, efficient, and economical manner; and

**NOW, THEREFORE**, for and in consideration of the premises and other good and valuable consideration, the Parties agree as follows:

#### 1. LINE OF AUTHORITY:

The Chief Executive Officer of the Department of Aviation or their designee or successor in function (the “**CEO**”), authorizes and directs all work performed under this Agreement. Until otherwise notified in writing by the CEO, the CEO has delegated the authority granted herein to the Airport Maintenance Division. The relevant Senior Vice President (the “**SVP**”), or their designee (the “**Director**”), will designate a Project Manager to coordinate professional services under this Agreement. Reports, memoranda, correspondence, and other submittals required of Consultant hereunder shall be processed in accordance with the Project Manager’s directions.

#### 2. SCOPE OF WORK AND CONSULTANT RESPONSIBILITIES:

**A. Scope of Services.** Consultant shall provide professional services and deliverables for the City as designated by the CEO, from time to time and as described in the attached *Exhibit A* (“**Scope of Work**”) and in accordance with Task Orders, schedules and budgets set by the City. Without requiring an amendment to this Agreement, the City may, through a Task Order or similar form issued by the CEO and signed by the Consultant, make minor changes, additions, or deletions to the Scope of Work without change to the Maximum Contract Amount.

**B. Task Orders.** The Project Manager will issue task orders for work to be completed under this Agreement (“**Task Orders**”). The terms of each Task Order must include but are not limited to information regarding schedule, staffing, and pricing. The Director may reduce or increase the scope of work and/or staffing required by a Task Order and the time and cost of performance shall be adjusted to reflect the time and cost resulting from the reduction or increase. In the City’s sole discretion, the Project Manager may elect to directly solicit or competitively procure the work under each Task Order.

**C. Standard of Performance.**

i. Consultant shall faithfully perform the work required under this Agreement in accordance with the standard of care, skill, efficiency, knowledge, training, and judgment provided by highly competent professionals who perform work of a similar nature to the work described in this Agreement.

ii. Consultant shall be liable to the City for all acts and omissions of Consultant and its employees, subcontractors, agents and any other party with whom Consultant contracts to perform any portion of the work under this Agreement, including any design elements of any authorized Task Order.

**D. Time is of the Essence.** Consultant acknowledges that time is of the essence in its performance of all work and obligations under this Agreement. Consultant shall perform all work under this Agreement in a timely and diligent manner.

**E. Subcontractors.**

i. In order to retain, hire, and/or contract with an outside subcontractor that is not identified in this Agreement for work under this Agreement, Consultant must obtain the prior written consent of the CEO. Consultant shall request the CEO’s approval in writing and shall include a description of the nature and extent of the services to be provided; the name, address and professional experience of the proposed subcontractor; and any other information requested by the City.

ii. The CEO shall have the right to reject any proposed outside subcontractor deemed by the CEO to be unqualified or unsuitable for any reason to perform the proposed services. The CEO shall have the right to limit the number of outside subcontractors and/or to limit the percentage of work to be performed by them.

iii. Any final agreement or contract with an approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make any claim of payment against the City or to file or claim any lien or encumbrance against any City property arising out of the performance or non-performance of this Agreement and/or the subcontract.

iv. Consultant is subject to Denver Revised Municipal Code (“**D.R.M.C.**”) § 20-112, wherein Consultant shall pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven (7) days after receipt of any payment from the City. Any late payments are subject to a late payment penalty as provided

in the Denver Prompt Payment Ordinance (D.R.M.C. §§ 20-107 through 20-118).

v. This Section, or any other provision of this Agreement, shall not create any contractual relationship between the City and any subcontractor. The City's approval of a subcontractor shall not create in that subcontractor a right to any subcontract. The City's approval of a subcontractor does not relieve Consultant of its responsibilities under this Agreement, including the work to be performed by the subcontractor.

**F. Personnel Assignments.**

i. Consultant or its subcontractor(s) shall assign all key personnel identified in this Agreement, including Task Order(s), to perform work under this Agreement ("Key Personnel"). Key Personnel shall perform work under this Agreement, unless otherwise approved in writing by the Director, or their authorized representative. In the event that replacement of Key Personnel is necessary, the City in its sole discretion shall approve or reject the replacement, if any, or shall determine that no replacement is necessary.

ii. It is the intent of the Parties that all Key Personnel perform their specialty for all such services required by this Agreement. Consultant and its subcontractor(s) shall retain Key Personnel for the entire Term of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed.

iii. If, during the Term of this Agreement, the Project Manager determines that the performance of any Key Personnel or other personnel, whether of Consultant or its subcontractor(s), is not acceptable or that any such personnel is no longer needed for performance of any work under this Agreement or Task Order(s), the Project Manager shall notify Consultant and may give Consultant notice of the period of time which the Project Manager considers reasonable to correct such performance or remove the personnel, as applicable.

iv. If Consultant fails to correct such performance, then the City may revoke its approval of the Key Personnel or other personnel in question and notify Consultant that such Key Personnel or other personnel will not be retained on this Project. Within ten (10) days of receiving this notice, Consultant shall use its best efforts to obtain adequate substitute personnel who must be approved in writing by the Project Manager. Consultant's failure to obtain the Project Manager's approval shall be grounds for Termination for Cause in accordance with this Agreement.

**3. OWNERSHIP AND DELIVERABLES:**

Upon payment to Consultant, all records, data, deliverables, and any other work product prepared by Consultant or any custom development work performed by Consultant for the purpose of performing this Agreement on or before the day of the payment, whether periodic or final payment, shall become the sole property of the City. Upon request by the City, or based on any schedule agreed to by Consultant and the City, Consultant shall provide the City with copies of the data/files that have been uploaded to any database maintained by or on behalf of Consultant or otherwise saved or maintained by Consultant as part of the services provided to the City under this Agreement. All such data/files shall be provided to the City electronically in a format agreed to by

the Parties. Consultant also agrees to allow the City to review any of the procedures Consultant uses in performing any work or other obligations under this Agreement, and to make available for inspection any and all notes, documents, materials, and devices used in the preparation for or performance of any of the scope of work, for up to three (3) years after termination of this Agreement. Upon written request from the City, Consultant shall deliver any information requested pursuant to this Section within ten (10) business days in the event a schedule or otherwise agreed-upon timeframe does not exist.

#### 4. TERM AND TERMINATION:

**A. Term.** The Term of this Agreement shall commence on the Effective Date and shall expire five (5) years from the Effective Date, unless terminated in accordance with the terms stated herein (the “**Expiration Date**”).

**B.** If the Term expires prior to Consultant completing the work under this Agreement, subject to the prior written approval of the CEO, this Agreement shall remain in full force and effect until the completion of any services commenced prior to the Expiration Date. Consultant has no right to compensation for services performed after the Expiration Date without such express approval from the CEO.

#### **C. Suspension and Termination.**

i. Suspension. The City may suspend performance of this Agreement at any time with or without cause. Upon receipt of notice from the Director, Consultant shall, as directed in the notice, stop work and submit an invoice for any work performed but not yet billed. Any milestones or other deadlines shall be extended by the period of suspension unless otherwise agreed to by the City and Consultant. The Expiration Date shall not be extended as a result of a suspension.

ii. Termination for Convenience. The City may terminate this Agreement at any time without cause upon written notice to Consultant.

iii. Termination for Cause. In the event Consultant fails to perform any provision of this Agreement, the City may either:

a. Terminate this Agreement for cause with ten (10) days prior written notice to Consultant; or

b. Provide Consultant with written notice of the breach and allow Consultant an Opportunity to Cure.

iv. Opportunity to Cure. Upon receiving the City’s notice of breach pursuant to Section 4(C)(iii)(b), Consultant shall have five (5) days to commence remedying its defective performance. If Consultant diligently cures its defective performance to the City’s satisfaction within a reasonable time as determined by the City, then this Agreement shall not terminate and shall remain in full force and effect. If Consultant fails to cure the breach to the City’s satisfaction, then the City may terminate this Agreement pursuant to Section 4(C)(iii)(a).

v. Compensation for Services Performed Prior to Suspension or Termination Notice. If this Agreement is suspended or terminated, the City shall pay Consultant the reasonable cost of only those services performed to the satisfaction of the CEO prior to the notice of suspension or termination. Consultant shall submit a final invoice for these costs within thirty (30) days of the date of the notice. Consultant has no right to compensation for services performed after the notice unless directed to perform those services by the City as part of the suspension or termination process or as provided in Section 4(C)(vi) below.

vi. Reimbursement for Cost of Orderly Termination. In the event of Termination for Convenience of this Agreement pursuant to Section 4(C)(ii), Consultant may request reimbursement from the City of the reasonable costs of orderly termination associated with the Termination for Convenience as part of its submittal of costs pursuant to Section 4(C)(v). In no event shall the total sums paid by the City pursuant to this Agreement, including Sections 4(C)(v) and (C)(vi), exceed the Maximum Contract Amount.

vii. No Claims. Upon termination of this Agreement, Consultant shall have no claim of any kind against the City by reason of such termination or by reason of any act incidental thereto. Consultant shall not be entitled to loss of anticipated profits or any other consequential damages as a result of termination.

**D. Remedies.** In the event Consultant breaches this Agreement, Consultant shall be liable to the City for all costs of correcting the work without additional compensation, including but not limited to additional costs incurred by the City, its tenants, or its other contractors arising out of Consultant's defective work. These remedies are in addition to, and do not limit, the remedies available to the City in law or in equity. These remedies do not amend or limit the requirements of Section 8 and Section 9 otherwise provided for in this Agreement.

## 5. COMPENSATION AND PAYMENT:

**A. Maximum Contract Amount.** Notwithstanding any other provision of this Agreement, the City shall not be liable under any theory for payment for services rendered and expenses incurred by Consultant under the terms of this Agreement for any amount in excess of the sum of **One Million Dollars and Zero Cents (\$1,000,000.00)** ("**Maximum Contract Amount**"). Consultant shall perform the services and be paid for those services as provided for in this Agreement, including in any Task Order(s), up to the Maximum Contract Amount.

**B. Limited Obligation of City.** The obligations of the City under this Agreement shall extend only to monies appropriated and encumbered for the purposes of this Agreement. Consultant acknowledges and understands the City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City. The City is not under any obligation to make any future encumbrances or appropriations for this Agreement nor is the City under any obligation to amend this Agreement to increase the Maximum Contract Amount above.

**C. Payment Source.** For payments required under this Agreement, the City shall

make payments to Consultant solely from funds of the Airport System Fund and from no other fund or source. The City has no obligation to make payments from any other source.

**D. Fee, Rates and Markups.** The Schedule of Rates and Markups is set forth in *Exhibit B*. Initial individual hourly rates and charges, including any applicable multiplier, are set forth in *Exhibit B*. The Project Manager, in his or her sole discretion, may annually adjust the hourly rates and/or the multiplier on the anniversary of the Effective Date through a Task Order applicable to future work as further provided in the Task Order. Hourly rate adjustments shall not exceed the Denver-Aurora-Lakewood Consumer Price Index issued by the U.S. Department of Labor, Bureau of Labor Statistics.

**E. Payment Schedule.** Subject to the Maximum Contract Amount, for payments required under this Agreement, the City shall pay Consultant's fees and expenses in accordance with this Agreement. Unless otherwise agreed to in writing, Consultant shall invoice the City on a regular basis in arrears and the City shall pay each invoice in accordance with Denver's Prompt Payment Ordinance, D.R.M.C. § 20-107, *et seq.*, subject to the Maximum Contract Amount.

**F. Invoices.** Unless otherwise provided in a Task Order, Consultant shall submit to the City a monthly progress invoice containing reimbursable costs and receipts from the previous month for professional services rendered under this Agreement to be audited and approved by the City ("**Invoice**"). Each Invoice shall provide the basis for payments to Consultant under this Agreement. In submitting an Invoice, Consultant shall comply with all requirements of this Agreement and:

- i. Include an executive summary and status report(s) that describe the progress of the services and summarize the work performed during the period covered by the Invoice;
- ii. Include a statement of recorded hours that are billed at an hourly rate;
- iii. Include the relevant purchase order ("**PO**") number related to the Invoice;
- iv. Ensure that amounts shown on the Invoices comply with and clearly reference the relevant services, indicate the hourly rate and multiplier where applicable, and identify the allowable reimbursable expenses;
- v. For only those reimbursable costs incurred in the previous month, submit itemized business expense logs and, where billing is based upon receipts, include copies of receipts for all allowable reimbursable expenses;
- vi. Include the signature of an authorized officer of Consultant, along with such officer's certification they have examined the Invoice and found it to be correct; and
- vii. Submit each Invoice via email to [ContractAdminInvoices@flydenver.com](mailto:ContractAdminInvoices@flydenver.com).
- viii. Late Fees. Consultant understands and agrees interest and late fees shall be payable by the City only to the extent authorized and provided for in the City's Prompt Payment Ordinance.

ix. Travel Expenses. Travel and any other expenses are not reimbursable unless such expenses are related to and in furtherance of the purposes of Consultant's engagement, are in accordance with this Agreement, and Consultant receives prior written approval of the Director or their authorized representative.

**G. Timesheets.** Consultant shall maintain all timesheets kept or created in relation to the services performed under this Agreement. The City may examine such timesheets and any other related documents upon the City's request.

**H. Disputed Invoices.** The City reserves the right to reject and not pay any Invoice or part thereof, including any final Invoice resulting from a Termination of this Agreement or any Task Order, where the Director or their authorized representative determines the amount invoiced exceeds the amount owed based upon the work satisfactorily performed. The City shall pay any undisputed items contained in an Invoice. Disputes concerning payments under this provision shall be resolved in accordance with procedures set forth in Section 9.

**I. Carry Over.** If Consultant's total fees for any of the services provided under this Agreement are less than the amount budgeted for, the amount remaining in the budget may be used for additional and related services rendered by Consultant if the CEO determines such fees are reasonable and appropriate and provides written approval of the expenditure.

**6. MWBE, WAGES AND PROMPT PAYMENT:**

**A. Minority/Women Business Enterprise.**

i. This Agreement is subject to Article V of Chapter 28, Denver Revised Municipal Code ("**D.R.M.C.**"), designated as §§ 28-117 to 28-199 (the "**Goods and Services Ordinance**"); and any Rules and Regulations promulgated pursuant thereto. The contract commitment for MWBE participation established for this Agreement by the Division of Small Business Opportunity ("**DSBO**") is fifty percent (50%). Consultant shall comply the Equity, Diversity and Inclusion Plan attached as *Exhibit D* ("**EDI Plan**") and as it may be modified in the future by DSBO. The EDI Plan shall constitute the Utilization Plan required by D.R.M.C. § 28-129.

ii. Under § 28-132, D.R.M.C., Consultant has an ongoing, affirmative obligation to maintain for the duration of this Agreement, at a minimum, compliance with the MWBE participation upon which this Agreement was awarded, unless there is a change in the work by the City under § 28-133, D.R.M.C. Consultant acknowledges that:

- (1) Along with the Utilization Plan requirements, the Consultant must establish and maintain records and submit regular reports, as directed by DSBO, which will allow the City to assess progress in complying with the Utilization Plan and achieving the MWBE participation goal. The Utilization Plan is subject to modification by DSBO.
- (2) If contract modifications are issued under the Agreement, whether by amendment or otherwise, the Consultant shall have a continuing obligation to promptly inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract, upon any of the bases under

§ 28-133, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification of the change to the City.

- (3) If there are changes in the work that include an increase in scope of work under this Agreement, whether by amendment or otherwise, which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MWBE at the time of contract award, such change or modification shall be immediately submitted to DSBO for notification purposes.
- (4) Those amendments or other modifications that involve a changed scope of work that cannot be performed by existing subcontractors shall be subject to the original goal on the contract. Consultant shall satisfy such goal with respect to the changed scope of work by soliciting new MWBEs in accordance with §§ 28-133, D.R.M.C. Consultant must also satisfy the requirements under §§ 28-128 and 28-136, D.R.M.C., with regard to changes in MWBE scope or participation. The Consultant shall supply to DSBO all required documentation under §§ 28-128, 28-133, and 28-136, D.R.M.C., with respect to the modified dollar value or work under the contract.
- (5) If applicable, for contracts of one million dollars (\$1,000,000.00) and over, Consultant is required to comply with § 28-135, D.R.M.C., regarding prompt payment to MWBEs. Payment to MWBE subcontractors shall be made by no later than thirty-five (35) days after receipt of the MWBE subcontractor's invoice.
- (6) Termination or substitution of an SBE subcontractor requires compliance with § 28-136, D.R.M.C.
- (7) Failure to comply with these provisions may subject Consultant to sanctions set forth in § 28-139 of the Goods and Services Ordinance.
- (8) Should any questions arise regarding DSBO requirements, Consultant should consult the Goods and Services Ordinance or may contact the designated DSBO representative at (720) 913-1999.

**B. Prompt Pay of MWBE Subcontractors.** For agreements of one million dollars (\$1,000,000.00) and over to which D.R.M.C. § 28-135 applies, Consultant is required to comply with the Prompt Payment provisions under D.R.M.C. § 28-135, with regard to payments by Consultant to MWBE subcontractors. If D.R.M.C. § 28-135 applies, Consultant shall make payment by no later than thirty-five (35) days from receipt by Consultant of the subcontractor's invoice.

**C. Prevailing Wage.** To the extent required by law, Consultant shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, D.R.M.C. §§ 20-76 through 20-79, including, but not limited to, the requirement that every covered worker working on a City owned or leased building or on City-owned land shall be paid no less than the prevailing wages and fringe benefits in effect



on the Effective Date of this Agreement.

i. Prevailing wage and fringe rates will adjust on, and only on, the anniversary of the Effective Date of this Agreement. Unless expressly provided for in this Agreement, Consultant will receive no additional compensation for increases in prevailing wages or fringe benefits.

ii. Consultant shall provide the Auditor with a list of all subcontractors providing any services under the Agreement.

iii. Consultant shall provide the Auditor with electronically-certified payroll records for all covered workers employed under this Agreement.

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

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

**D. City Minimum Wage.** To the extent required by law, Consultant shall comply with and agrees to be bound by all requirements, conditions, and the City determinations regarding the City's Minimum Wage Ordinance, D.R.M.C. §§ 20-82 through 20-84, including, but not limited to, the requirement that every covered worker shall be paid no less than the City Minimum Wage in accordance with the City's Minimum Wage Ordinance. By executing this Agreement, Consultant expressly acknowledges that Consultant is aware of the requirements of the City's Minimum Wage Ordinance and that any failure by Consultant, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

**E. City Prompt Pay.**

i. The City will make monthly progress payments to Consultant for all services performed under this Agreement based upon Consultant's monthly invoices or shall make payments as otherwise provided in this Agreement. The City's Prompt Payment Ordinance, D.R.M.C. §§ 20-107 to 20-118 applies to invoicing and payment under this Agreement.

ii. Final Payment to Consultant shall not be made until after the Project is accepted, and all certificates of completion, record drawings and reproducible copies are delivered to the City, and the Agreement is otherwise fully performed by Consultant. The City may, at the discretion of the Director, withhold reasonable amounts from billing and the entirety of the final payment until all such requirements are performed to the satisfaction of the Director.

## 7. INSURANCE REQUIREMENTS:

**A.** Consultant shall obtain and keep in force all of the minimum insurance coverage forms and amounts set forth in *Exhibit C* (“**Insurance Requirements**”) during the entire Term of this Agreement, including any extensions of the Agreement or other extended period stipulations stated in *Exhibit C*. All certificates of insurance must be received and accepted by the City before any airport access or work commences.

**B.** Consultant shall ensure and document that all subcontractors performing services or providing goods hereunder procure and maintain insurance coverage that is appropriate to the primary business risks for their respective scopes of performance. At minimum, such insurance must conform to all applicable requirements of DEN Rules and Regulations Part 230 and all other applicable laws and regulations.

**C.** The City in no way warrants or represents the minimum limits contained herein are sufficient to protect Consultant from liabilities arising out of the performance of the terms and conditions of this Agreement by Consultant, its agents, representatives, employees, or subcontractors. Consultant shall assess its own risks and maintain higher limits and/or broader coverage as it deems appropriate and/or prudent. Consultant is not relieved of any liability or other obligations assumed or undertaken pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

**D.** In no event shall the City be liable for any of the following: (i) business interruption or other consequential damages sustained by Consultant; (ii) damage, theft, or destruction of Consultant's inventory, or property of any kind; or (iii) damage, theft, or destruction of an automobile, whether or not insured.

**E.** The Parties understand and agree that the City, its elected and appointed officials, employees, agents and volunteers are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations and any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 to 120, or otherwise available to the City, its elected and appointed officials, employees, agents and volunteers.

## 8. DEFENSE AND INDEMNIFICATION:

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

**B.** Consultant’s duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether Claimant has filed suit on

the Claim. Consultant's duty to defend and indemnify the City shall arise even if the City is the only party sued by claimant and/or claimant alleges that the City's negligence or willful misconduct was the sole cause of claimant's damages.

**C.** Consultant will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation, including but not limited to time expended by the City Attorney Staff, whose costs shall be computed at the rate of two hundred dollars and no cents (\$200.00) per hour of City Attorney time. Such payments on behalf of the City shall be in addition to any other legal remedies available to the City and shall not be considered the City's exclusive remedy.

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

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

## **9. DISPUTES:**

All disputes arising under or related to this Agreement shall be resolved by administrative hearing under the procedures described in D.R.M.C. § 5-17 and all related rules and procedures. The determination resulting from said administrative hearing shall be final, subject only to the right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

## **10. GENERAL TERMS AND CONDITIONS:**

**A. Status of Consultant.** Parties agree that the status of Consultant shall be an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in §9.1.1(E)(x) of the Charter of the City and County of Denver (the "**City Charter**"). It is not intended, nor shall it be construed, that Consultant or its personnel are employees or officers of the City under D.R.M.C. Chapter 18 for any purpose whatsoever.

**B. Assignment.** Consultant shall not assign, pledge or transfer its duties, obligations, and rights under this Agreement, in whole or in part, without first obtaining the written consent of the CEO. Any attempt by Consultant to assign or transfer its rights hereunder without such prior written consent shall, at the option of the CEO, automatically terminate this Agreement and all rights of Consultant hereunder.

**C. Compliance with all Laws and Regulations.** Consultant and its subcontractor(s) shall perform all work under this Agreement in compliance with all existing and future applicable laws, rules, regulations, and codes of the United States, and the State of Colorado and with the City Charter, ordinances, Executive Orders and rules and regulations of the City.

**D. Compliance with Patent, Trademark and Copyright Laws.**

i. Consultant agrees that all work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States, as they may be amended from time to time. Consultant will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission, all releases, and other necessary documents. If Consultant prepares any documents which specify any material, equipment, process or procedure which is protected, Consultant shall disclose such patents, trademarks and copyrights in such documents.

ii. Pursuant to Section 8, Consultant shall indemnify and defend the City from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which infringes upon any patent, trademark or copyright protected by law.

**E. Notices.**

i. Notices of Termination. Notices concerning termination of this Agreement shall be made as follows:

by Consultant to:

Chief Executive Officer  
Denver International Airport  
Airport Office Building  
8500 Peña Boulevard, 9th Floor  
Denver, Colorado 80249-6340

And by the City to:

New Flooring Horizons LLC  
6700 Smith Road  
Unit E  
Denver, CO 80207  
Attn: Rob Del Rosario

ii. Delivery of Formal Notices. Formal notices of the termination of this Agreement shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested ; express mail (Fed Ex, UPS, or similar service) or package shipping or courier service; or by electronic delivery directed to the person identified above and copied to the Project Manager through the electronic or software system used at the City's direction for Task Order-related and other official communications and document transmittals. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service and electronically transmitted notices by pressing "send" or the equivalent on the email or other transmittal method sufficient to irretrievably transmit the document. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed, delivered or

emailed, but such substitutions shall not be effective until actual receipt of written or electronic notification thereof through the method contained in Subsection (E)(ii).

iii. Other Correspondence. Other notices and day-to-day correspondence between the Parties may be done via email directed to the Project Manager or through the electronic or software system used at the City's direction in writing for Task Order-related communications and transmittals at the City's direction.

**F. Rights and Remedies Not Waived.** In no event shall any payment by the City hereunder constitute or be construed to be a waiver by the City of any breach of covenant or default which may then exist on the part of Consultant. The City making any such payment when any breach or default exists shall not impair or prejudice any right or remedy available to the City with respect to such breach or default. The City's assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall not be deemed or taken to be a waiver of any other breach.

**G. No Third-Party Beneficiaries.** The Parties agree that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the City and Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any third party. It is the express intention of the Parties that any person or entity other than the City or Consultant receiving services or benefits under this Agreement shall be deemed an incidental beneficiary and shall not have any interest or rights under this Agreement.

**H. Governing Law.** This Agreement is made under and shall be governed by the laws of the State of Colorado. Each and every term, provision and condition herein is subject to the provisions of Colorado law, the City Charter, and the ordinances and regulations enacted pursuant thereto, as may be amended from time to time.

**I. Bond Ordinances.** This Agreement is in all respects subject and subordinate to any and all the City bond ordinances applicable to the Airport System and to any other bond ordinances which amend, supplement, or replace such bond ordinances.

**J. Venue.** Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

**K. Cooperation with Other Contractors.**

i. The City may award other contracts for additional work, and Consultant shall fully cooperate with such other contractors. The City, in its sole discretion, may direct Consultant to coordinate its work under this Agreement with one or more such contractors.

ii. Consultant shall have no claim against the City for additional payment due to delays or other conditions created by the operation of other contractors. The City will decide the respective rights of the various contractors in order to secure the completion of the work.

**L. Inurement.** The rights and obligations of the Parties herein set forth shall inure to

the benefit of and be binding upon the Parties hereto and their respective successors and assigns permitted under this Agreement.

**M. Force Majeure.** The Parties shall not be liable for any failure to perform any of its obligations hereunder due to or caused by, in whole or in part, fire, strikes, lockouts, unusual delay by common carriers, unavoidable casualties, war, riots, acts of terrorism, acts of civil or military authority, acts of God, judicial action, or any other causes beyond the control of the Parties. The Parties shall have the duty to take reasonable actions to mitigate or prevent further delays or losses resulting from such causes.

**N. Coordination and Liaison.** Consultant agrees that during the term of this Agreement it shall fully coordinate all services that it has been directed to proceed upon and shall make every reasonable effort to fully coordinate all such services as directed by the **Director** or their authorized representative, along with any City agency, or any person or firm under contract with the City doing work which affects Consultant's work.

**O. No Authority to Bind City to Contracts.** Consultant has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City as required by the City Charter and ordinances.

**P. Information Furnished by the City.** The City will furnish to Consultant information concerning matters that may be necessary or useful in connection with the work to be performed by Consultant under this Agreement. The Parties shall make good faith efforts to ensure the accuracy of information provided to the other Party; however, Consultant understands and acknowledges that the information provided by the City to Consultant may contain unintended inaccuracies. Consultant shall be responsible for the verification of the information provided to Consultant.

**Q. Severability.** In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**R. Taxes and Costs.** Consultant shall promptly pay, when due, all taxes, bills, debts and obligations it incurs performing work under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against land, facilities or improvements owned by the City.

**S. Environmental Requirements.** Consultant, in conducting its activities under this Agreement, shall comply with all existing and future applicable local, state and federal environmental rules, regulations, statutes, laws and orders (collectively "**Environmental Requirements**"), including but not limited to Environmental Requirements regarding the storage, use and disposal of Hazardous or Special Materials and Wastes, Clean Water Act legislation, Centralized Waste Treatment Regulations, and DEN Rules and Regulations.

i. For purposes of this Agreement the terms "Hazardous Materials" shall refer to those materials, including without limitation asbestos and asbestos-containing materials, polychlorinated biphenyls (PCBs), per – and polyfluoroalkyl substances (PFAS), oil or any other petroleum products, natural gas, source material, pesticide, and any hazardous waste,

toxic substance or related material, including any substance defined or treated as a "hazardous substance," "hazardous waste" or "toxic substance" (or comparable term) in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sec. 9601 *et seq.* (1990)), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 *et seq.* (1990)), and any rules and regulations promulgated pursuant to such statutes or any other applicable federal or state statute.

ii. Consultant shall acquire all necessary federal, state and local environmental permits and comply with all applicable federal, state and local environmental permit requirements.

iii. Consultant agrees to ensure that its activities under this Agreement are conducted in a manner that minimizes environmental impact through appropriate preventive measures. Consultant agrees to evaluate methods to reduce the generation and disposal of waste materials.

iv. In the case of a release, spill or leak as a result of Consultant's activities under this Agreement, Consultant shall immediately control and remediate the contaminated media to applicable federal, state and local standards. Consultant shall reimburse the City for any penalties and all costs and expenses, including without limitation attorney's fees, incurred by the City as a result of the release or disposal by Consultant of any pollutant or hazardous material.

**T. Non-Exclusive Rights.** This Agreement does not create an exclusive right for Consultant to provide the services described herein at DEN. The City may, at any time, award other agreements to other contractors or consultants for the same or similar services to those described herein. In the event of a dispute between Consultant and any other party at DEN, including DEN itself, as to the privileges of the parties under their respective agreements, CEO shall determine the privileges of each party and Consultant agrees to be bound by CEO's decision.

## **11. RECORD RETENTION AND OTHER STANDARD CITY PROVISIONS:**

**A. Diversity and Inclusiveness.** The City encourages the use of qualified small businesses doing business within the metropolitan area that are owned and controlled by economically or socially disadvantaged individuals. Consultant is encouraged, with respect to the goods or services to be provided under this Agreement, to use a process that includes small businesses when considering and selecting any subcontractors or suppliers.

**B. No Discrimination in Employment.** In connection with the performance of work under the Agreement, the Consultant 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 Consultant shall insert the foregoing provision in all subcontracts.

**C. Advertising and Public Disclosures.** Consultant shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations

materials without first obtaining the written approval of the Director or their authorized representative. Any oral presentation or written materials related to DEN shall include only presentation materials, work product, and technical data which have been accepted by the City, and designs and renderings, if any, which have been accepted by the City. Consultant shall notify the Director in advance of the date and time of any such presentations. Nothing herein, however, shall preclude Consultant's transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO, any member or members of Denver City Council, and the Auditor.

**D. Colorado Open Records Act.**

i. Consultant acknowledges that the City is subject to the provisions of the Colorado Open Records Act (“**CORA**”), C.R.S. §§ 24-72-201 *et seq.*, and Consultant agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such act for the disclosure of any materials or information which Consultant asserts is confidential or otherwise exempt from disclosure. Any other provision of this Agreement notwithstanding, all materials, records, and information provided by Consultant to the City shall be considered confidential by the City only to the extent provided in CORA, and Consultant agrees that any disclosure of information by the City consistent with the provisions of CORA shall result in no liability of the City.

ii. In the event of a request to the City for disclosure of such information, time and circumstances permitting, the City will make a good faith effort to advise Consultant of such request in order to give Consultant the opportunity to object to the disclosure of any material Consultant may consider confidential, proprietary, or otherwise exempt from disclosure. In the event Consultant objects to disclosure, the City, in its sole and absolute discretion, may file an application to the Denver District Court for a determination of whether disclosure is required or exempted. In the event a lawsuit to compel disclosure is filed, the City may tender all such material to the court for judicial determination of the issue of disclosure. In both situations, Consultant agrees it will either waive any claim of privilege or confidentiality or intervene in such legal process to protect materials Consultant does not wish disclosed. Consultant agrees to defend, indemnify, and hold harmless the City, its officers, agents, and employees from any claim, damages, expense, loss, or costs arising out of Consultant’s objection to disclosure, including prompt reimbursement to the City of all reasonable attorney’s fees, costs, and damages the City may incur directly or may be ordered to pay by such court, including but not limited to time expended by the City Attorney Staff, whose costs shall be computed at the rate of two hundred dollars and no cents (\$200.00) per hour of City Attorney time.

**E. Examination of Records and Audits.**

i. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City’s election in paper or electronic form, any pertinent books, documents, papers and records related to Consultant’s performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Consultant shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business



hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Consultant to make disclosures in violation of state or federal privacy laws. Consultant shall at all times comply with D.R.M.C. §20-276.

ii. Additionally, Consultant agrees until the expiration of three (3) years after the final payment under the Agreement, any duly authorized representative of the City, including the CEO, shall have the right to examine any pertinent books, documents, papers and records of Consultant related to Consultant's performance of this Agreement, including communications or correspondence related to Consultant's performance, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program.

iii. In the event the City receives federal funds to be used toward the services performed under this Agreement, the Federal Aviation Administration ("FAA"), the Comptroller General of the United States and any other duly authorized representatives shall have access to any books, documents, papers and records of Consultant which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. Consultant further agrees that such records will contain information concerning the hours and specific services performed along with the applicable federal project number.

**F. Use, Possession or Sale of Alcohol or Drugs.** Consultant shall cooperate and comply with the provisions of Denver Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring Consultant from City facilities or participating in City operations.

**G. City Smoking Policy.** Consultant and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99 and the Colorado Indoor Clean Air Act, prohibiting smoking in all City buildings and facilities.

**H. Conflict of Interest.**

i. Consultant and its subsidiaries, affiliates, subcontractors, principals, or employees shall not engage in any transaction, work, activity or conduct which would result in a conflict of interest. A conflict of interest occurs when, for example, because of the relationship between two individuals, organizations or one organization (including its subsidiaries or related organizations) performing or proposing for multiple scopes of work for the City, there is or could be in the future a lack of impartiality, impaired objectivity, an unfair advantage over one or more firms competing for the work, or a financial or other interest in other scopes of work.

ii. Consultant represents that, in its Response or Proposal, as applicable, it disclosed any and all current or potential conflicts of interest of which it is aware, including transactions, work, activities, or conduct that might affect the judgment, actions, or work of Consultant or which might give Consultant an unfair advantage in this or a future procurement. If the Parties identified a conflict of interest and agreed to a plan to mitigate such conflict, Consultant agrees it will comply with that mitigation plan.

iii. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement if such a conflict exists, after it has given Consultant written notice which describes such conflict. If, during the course of the Agreement, the City determines that a potential conflict of interest exists or may exist, Consultant shall have thirty (30) days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

iv. Consultant has a continuing duty to disclose, in writing, any actual or potential conflicts of interest including work Consultant is performing or anticipates performing for other entities on the same or interrelated project or tasks. Consultant must disclose, in writing, any corporate transactions involving other companies that Consultant knows or should know also are performing or anticipate performing work at DEN on the same or interrelated projects or tasks. In the event that Consultant fails to disclose in writing actual or potential conflicts, the CEO in their sole discretion, may terminate the Task Order, if applicable, or City may terminate the Agreement for cause or for its convenience.

## **12. SENSITIVE SECURITY INFORMATION:**

Consultant acknowledges that, in the course of performing its work under this Agreement, Consultant may be given access to Sensitive Security Information (“SSI”), as material is described in the Code of Federal Regulations, 49 C.F.R. Part 1520. Consultant specifically agrees to comply with all requirements of the applicable federal regulations, including but not limited to, 49 C.F.R. Parts 15 and 1520. Consultant understands any questions it may have regarding its obligations with respect to SSI must be referred to DEN’s Security Office.

## **13. DEN SECURITY:**

**A.** Consultant, its officers, authorized officials, employees, agents, subcontractors, and those under its control, shall comply with safety, operational, or security measures required of Consultant or the City by the FAA or Transportation Security Administration (“TSA”). If Consultant, its officers, authorized officials, employees, agents, subcontractors or those under its control, fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against the City, then, in addition to any other remedies available to the City, Consultant shall fully reimburse the City any fines or penalties levied against the City, and any attorney fees or related costs paid by the City as a result of any such violation. Consultant must pay this amount within fifteen (15) days from the date of the invoice or written notice. Any fines and fees assessed by the FAA or TSA against the City due to the actions of Consultant and/or its agents will be deducted directly from the invoice for that billing period.

**B.** Consultant is responsible for compliance with Airport Security regulations and 49

C.F.R. Parts 1542 (Airport Security) and 14 C.F.R. Parts 139 (Airport Certification and Operations). Any and all violations pertaining to Parts 1542 and 139 resulting in a fine will be passed on to and borne by Consultant. The fee/fine will be deducted from the invoice at time of billing.

**14. FEDERAL RIGHTS:**

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes and the expenditure of federal funds for the extension, expansion or development of the Airport System. As applicable, Consultant shall comply with the Standard Federal Assurances identified in Appendix No. 1.

**15. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE**

**A. Attachments.** This Agreement consists of Section 1 through 16 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

- Appendix No. 1: Standard Federal Assurances
- Exhibit A: Scope of Work
- Exhibit B: Schedule of Rates and Markups
- Exhibit C: Insurance Requirements
- Exhibit D: EDI Plan

**B. Order of Precedence.** In the event of an irreconcilable conflict between a provision of Section 1 through 16 and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

- Appendix No. 1
- Section 1 through 16 hereof
- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D

**16. CITY EXECUTION OF AGREEMENT**

**A. City Execution.** This Agreement is expressly subject to, and shall become effective upon, the execution of all signatories of the City and, if required, the approval of Denver City Council. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same.

**B. Electronic Signatures and Electronic Records.** The Agreement, and any other

documents requiring a signature hereunder, may be signed electronically by the City and/or Consultant in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[SIGNATURE PAGES FOLLOW]**

**Contract Control Number:** PLANE-202265506-00  
**Contractor Name:** NEW HORIZONS FLOORING CO., LLC

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:

\_\_\_\_\_



## **Appendix No. 1**

### **Standard Federal Provisions**

## GENERAL CIVIL RIGHTS PROVISIONS

The Consultant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Consultant and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

### COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS:

During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter collectively referred to as the "Consultant"), agrees as follows:

1. **Compliance with Regulations:** The Consultant (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Consultant of the Consultant's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Consultant will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Consultant's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract



sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Consultant under the contract until the Consultant complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Consultant may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

#### **TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES**

During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the “Consultant”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act

of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

### **FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

Consultant is responsible for complying with the Federal Fair Labor Standards Act and for monitoring compliance by its subcontractors. Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

### **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Consultant must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Consultant retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

## Exhibit A

### Scope of Work

#### **Flooring, Carpet, Terrazzo Repair-Replace Program 202265506**

Provide all labor, materials, permits, and specialized equipment required to perform flooring surface replacement or repair, including epoxy surface, tile, carpet, vinyl, linoleum, terrazzo, and other surfaces throughout DEN public, office, and common areas.

All flooring surface replacement and/or repair must meet DEN specifications and site-specific requirements, including structural requirements and unique specifications for each location serviced.

The complexity of products used, access and shutdown requirements, scheduling, permitting, and processes required to install or repair flooring surfaces require the vendor to coordinate on-site service with all DEN agencies, stakeholders, tenants, and partners affected by work in the service area.

### Exhibit B - Schedule of Rates & Markups

Flooring, Carpet, Terrazzo Repair/Replace Program Services - 202265506

#### Section A - Hourly Labor Rates

Job Title	Hour Rate
Carpet installer	\$111.41
Tile Setter	\$122.49
Tile Finisher	\$122.49
Project Manager	\$99.22

#### Section B - Equipment Fees

Description	Price Per Day
Ride on Removal Machine	\$481.50
Electric Pallet Jack	\$85.60
Floor Stripper	\$80.25

**EXHIBIT C**

**CITY AND COUNTY OF DENVER  
INSURANCE REQUIREMENTS FOR DEPARTMENT OF AVIATION  
GOODS AND SERVICES AGREEMENT**

**A. Certificate Holder and Submission Instructions**

Contractor must provide a Certificate of Insurance as follows:

Certificate Holder: CITY AND COUNTY OF DENVER  
Denver International Airport  
8500 Peña Boulevard  
Denver CO 80249  
Attn/Submit to: [ContractAdminInvoices@flydenver.com](mailto:ContractAdminInvoices@flydenver.com)

- ACORD Form (or equivalent) certificate is required.
- Contractor must be evidenced as a Named Insured party.
- Electronic submission only, hard copy documents will not be accepted.
- Reference on the certificate must include the City-assigned Contract Number, if applicable.

The City may at any time modify submission requirements, including the use of third-party software and/or services, which may include an additional fee to the Contractor.

**B. Defined Terms**

1. “Agreement” as used in this exhibit refers to the contractual agreement to which this exhibit is attached, irrespective of any other title or name it may otherwise have.
2. “Contractor” as used in this exhibit refers to the party contracting with the City and County of Denver pursuant to the attached Agreement.

**C. Coverages and Limits**

1. Commercial General Liability  
Contractor shall maintain insurance coverage including bodily injury, property damage, personal injury, advertising injury, independent contractors, and products and completed operations in minimum limits of \$1,000,000 each occurrence, \$2,000,000 products and completed operations aggregate; if policy contains a general aggregate, a minimum limit of \$2,000,000 annual per location aggregate must be maintained.
  - a. Coverage shall include Contractual Liability covering liability assumed under this Agreement (including defense costs assumed under contract) within the scope of coverages provided.
  - b. Coverage shall include Mobile Equipment Liability, if used to perform services under this Agreement.
  - c. If a “per location” policy aggregate is required, “location” shall mean the entire airport premises.
2. Business Automobile Liability  
Contractor shall maintain a minimum limit of \$1,000,000 combined single limit each occurrence for bodily injury and property damage for all owned, leased, hired and/or non-owned vehicles used in performing services under this Agreement.
  - a. If operating vehicles unescorted airside at DEN, a \$10,000,000 combined single limit each occurrence for bodily injury and property damage is required.
  - b. If Contractor does not have blanket coverage on all owned and operated vehicles and will require unescorted airside driving privileges, then a schedule of insured vehicles (including year, make, model and VIN number) must be submitted with the Certificate of Insurance.

- c. If transporting waste, hazardous material, or regulated substances, Contractor shall carry a Broadened Pollution Endorsement and an MCS 90 endorsement on its policy.
  - d. If Contractor does not own any fleet vehicles and Contractor's owners, officers, directors, and/or employees use their personal vehicles to perform services under this Agreement, Contractor shall ensure that Personal Automobile Liability including a Business Use Endorsement is maintained by the vehicle owner, and if appropriate, Non-Owned Auto Liability by the Contractor. This provision does not apply to persons solely commuting to and from the airport.
  - e. If Contractor will be completing all services to DEN under this Agreement remotely and not be driving to locations under direction of the City to perform services this requirement is waived.
3. **Workers' Compensation and 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 no less than \$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.
- a. Colorado Workers' Compensation Act allows for certain, limited exemptions from Worker's Compensation insurance coverage requirements. It is the sole responsibility of the Contractor to determine their eligibility for providing this coverage, executing all required documentation with the State of Colorado, and obtaining all necessary approvals. Verification document(s) evidencing exemption status must be submitted with the Certificate of Insurance.
4. **Property Insurance**  
Contractor is solely responsible for any loss or damage to its real or business personal property located on DEN premises including, but not limited to, materials, tools, equipment, vehicles, furnishings, structures and personal property of its employees and subcontractors unless caused by the sole, gross negligence of the City. If Contractor carries property insurance on its property located on DEN premises, a waiver of subrogation as outlined in Section F will be required from its insurer.
5. **Excess/Umbrella Liability**  
Combination of primary and excess coverage may be used to achieve minimum required coverage limits. Excess/Umbrella policy(ies) must follow form of the primary policies with which they are related to provide the minimum limits and be verified as such on any submitted Certificate of Insurance.

**D. Reference to Project and/or Contract**

The City Project Name, Title of Agreement and/or Contract Number and description shall be noted on the Certificate of Insurance, if applicable.

**E. Additional Insured**

For all coverages required under this Agreement (excluding Workers' Compensation, Employer's Liability and Professional Liability, if required), Contractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, successors, agents, employees, and volunteers as Additional Insureds by policy endorsement.

**F. Waiver of Subrogation**

For all coverages required under this Agreement (excluding Professional Liability, if required), Contractor's insurer(s) shall waive subrogation rights against the City and County of Denver, its elected and appointed officials, successors, agents, employees, and volunteers by policy endorsement.

If Contractor will be completing all services to the City under this Agreement remotely and not be traveling to locations under direction of the City to perform services, this requirement is waived specific to Workers' Compensation coverage.

### **G. Notice of Material Change, Cancellation or Nonrenewal**

Each certificate and related policy shall contain a valid provision requiring notification to the Certificate Holder in the event any of the required policies be canceled or non-renewed or reduction in required coverage before the expiration date thereof.

1. Such notice shall reference the DEN assigned contract number related to this Agreement.
2. Such notice shall be sent thirty (30) calendar days prior to such cancellation or non-renewal or reduction in required coverage unless due to non-payment of premiums for which notice shall be sent ten (10) calendar days prior.
3. If such written notice is unavailable from the insurer or afforded as outlined above, Contractor shall provide written notice of cancellation, non-renewal and any reduction in required coverage to the Certificate Holder within three (3) business days of receiving such notice by its insurer(s) and include documentation of the formal notice received from its insurer(s) as verification. Contractor shall replace cancelled or nonrenewed policies with no lapse in coverage and provide an updated Certificate of Insurance to DEN.
4. In the event any general aggregate or other aggregate limits are reduced below the required minimum per occurrence limits, Contractor will procure, at its own expense, coverage at the requirement minimum per occurrence limits. If Contractor cannot replenish coverage within ten (10) calendar days, it must notify the City immediately.

### **H. Cooperation**

Contractor agrees to fully cooperate in connection with any investigation or inquiry and accept any formally tendered claim related to this Agreement, whether received from the City or its representative. Contractor's failure to fully cooperate may, as determined in the City's sole discretion, provide cause for default under the Agreement. The City understands acceptance of a tendered claim does not constitute acceptance of liability.

### **I. Additional Provisions**

1. Deductibles or any type of retention are the sole responsibility of the Contractor.
2. Defense costs shall be in addition to the limits of liability. If this provision is unavailable that limitation must be evidenced on the Certificate of Insurance.
3. Coverage required may not contain an exclusion related to operations on airport premises.
4. A severability of interests or separation of insureds provision (no insured vs. insured exclusion) is included under all policies where Additional Insured status is required.
5. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City under all policies where Additional Insured status is required.
6. If the Contractor procures or maintains insurance policies with coverages or limits beyond those stated herein, such greater policies will apply to their full effect and not be reduced or limited by the minimum requirements stated herein.
7. All policies shall be written on an occurrence form. If an occurrence form is unavailable or not industry norm for a given policy type, claims-made coverage will be accepted by the City provided the retroactive date is on or before the Agreement Effective Date or the first date when any goods or services were provided to the City, whichever is earlier, and continuous coverage will be maintained or an extended reporting period placed for three years (eight years for construction-related agreements) beginning at the time work under this Agreement is completed or the Agreement is terminated, whichever is later.
8. Certificates of Insurance must specify the issuing companies, policy numbers and policy periods for each required form of coverage. The certificates for each insurance policy are to be signed by an authorized representative and must be submitted to the City at the time Contractor signed this Agreement.
9. The insurance shall be underwritten by an insurer licensed or authorized to do business in the State of Colorado and rated by A.M. Best Company as A- VIII or better.
10. Certificate of Insurance and Related Endorsements: The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements 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. All coverage requirements shall be enforced unless waived or otherwise modified in writing by DEN Risk Management. Contractor is solely responsible for ensuring all formal policy endorsements are issued by their insurers to support the requirements.

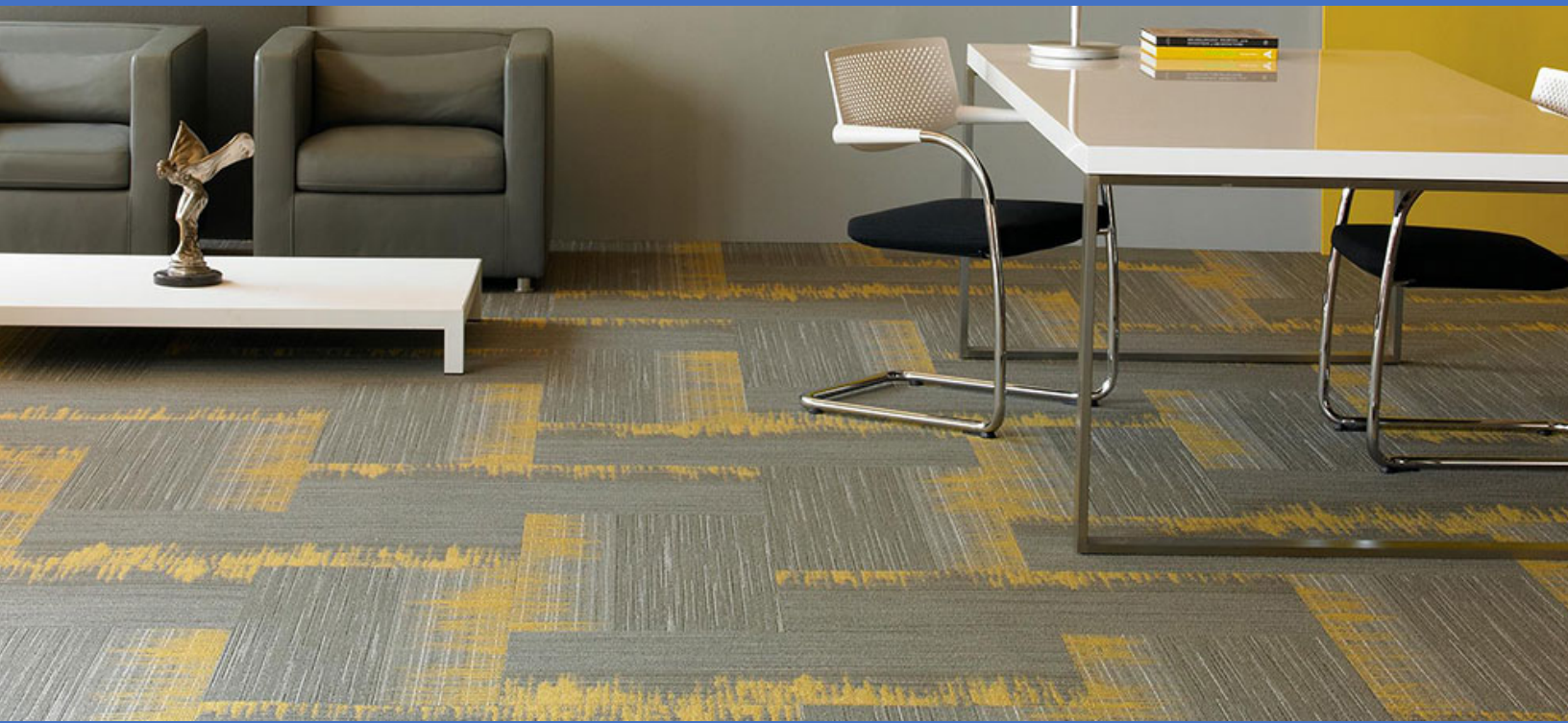
11. The City shall have the right to verify, at any time, all coverage, information, or representations, and the insured and its insurance representatives shall promptly and fully cooperate in any such audit the City may elect to undertake including provision of copies of insurance policies upon request. In the case of such audit, the City may be subject to a non-disclosure agreement and/or redactions of policy information unrelated to verification of required coverage.
12. No material changes, modifications, or interlineations to required insurance coverage shall be allowed without the review and written approval of DEN Risk Management.
13. Contractor shall be responsible for ensuring the City is provided updated Certificate(s) of Insurance prior to each policy renewal.
14. Contractor's failure to maintain required insurance shall be the basis for immediate suspension and cause for termination of this Agreement, at the City's sole discretion and without penalty to the City.

**J. Part 230 and the DEN Airport Rules and Regulations**

If the minimum insurance requirements set forth herein differ from the equivalent types of insurance requirements in Part 230 of the DEN Airport Rules and Regulations, the greater and broader insurance requirements shall supersede those lesser requirements, unless expressly excepted in writing by DEN Risk Management. Part 230 applies to Contractor and its subcontractors of any tier.



*“Quality, Honor and Perfection in Every Step”*



City and County Of Denver  
Denver Economic Development & Opportunity  
101 W. Colfax Ave, Denver, CO 80202  
ATTN: Cynthia Estes  
DSBO MWBE EDI Plan

Contract # 202265506  
Flooring, Carpet Terrazzo Repair Replace Program Services

Date and Time Due:  
July 19, 2023

New Flooring Horizons, LLC  
6700 Smith Road, Unit E  
Denver, CO 80207

Rob Del Rosario  
M: (720) 464-3256  
Managing Member

Flooring, Carpet, Terrazzo Repair Replace Program Services



07/19/2023

Cynthia Estes  
Compliance Project Manager  
Denver Economic Development & Opportunity  
City and County of Denver  
101 W. Colfax  
Denver, CO 80202

Subject: MWBE EDI Plan for contract # 202265506 - Flooring, Carpet, Terrazzo Replace Repair Services at DEN

Dear Ms. Estes,

Please accept New Flooring Horizons MWBE EDI (Equity, Diversity, and Inclusion) Plan for contract # 202265506 - Flooring, Carpet, Terrazzo Replace Repair Services at DEN. We appreciate the opportunity to be considered for this esteemed project and are excited to showcase our expertise in providing exceptional flooring solutions.

New Flooring Horizons, with over 30 years of combined experience, is committed to promoting equity, diversity, and inclusion in all aspects of our business. Our MWBE EDI Plan complies with the MWBE ordinance and any corresponding Rules and Regulations set forth by the City and County of Denver.

Key elements of our plan include:

- Outreach and Recruitment: We will actively engage with MWBEs through MWBE directories, industry associations, and community organizations to encourage their participation in this project.
- Subcontracting and Supplier Diversity: We will establish transparent guidelines to ensure fair consideration of MWBEs for subcontracting and supplier roles, fostering a diverse supplier base.

## Flooring, Carpet, Terrazzo Repair Replace Program Services

- **Training and Capacity Building:** We will offer training and mentorship programs to MWBEs, equipping them with the necessary skills to excel in the flooring industry and contribute to their long-term success.
- **Compliance and Reporting:** We are committed to maintaining compliance with all MWBE and EDI requirements, implementing monitoring and reporting mechanisms to track our MWBE and EDI initiatives' progress.

Thank you for considering New Flooring Horizons for this project. We are convinced that our MWBE EDI Plan is consistent with the objectives and values of the City and County of Denver, thereby fostering an inclusive and diverse business environment. Furthermore, we are confident in our capacity to provide superior flooring services while adhering to the principles of equity, diversity, and inclusion, and we anticipate the possibility of collaborating with you and the successful completion of this endeavor.

Sincerely,



Rob Del Rosario  
Managing Member  
(720) 464-3256  
rob@NewFlooringHorizons.com  
New Flooring Horizons LLC

Flooring, Carpet, Terrazzo Repair Replace Program Services

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## MWBE Coordinator

***Identify an MWBE Coordinator that will have direct and independent access to the project manager and/or chief operating officer. This coordinator should be identified as key personnel and submitted with the Proposal package. This coordinator will manage locally established MWBE requirements for the Program, including meeting local requirements and conformance to reporting requirements. The coordinator will also manage outreach and development efforts to small, disadvantaged, minority, and women-owned businesses to improve sub-consulting/subcontracting opportunities and assist in the administration of the MWBE EDI Plan. Please elaborate on experience the MWBE Coordinator has related to: experience managing locally established sub-consulting/subcontracting requirements in the city of Denver and state of Colorado. Experience should indicate success meeting local requirements and conformance to reporting requirements; experience managing outreach and development efforts to small and local businesses to improve sub-consulting/subcontracting opportunities.***

Arnold Del Rosario, a key personnel under this contract, is our designated MWBE coordinator. Arnold has been an exceptional MWBE (Minority and Women-Owned Business Enterprise) Coordinator for the past five years, demonstrating his unwavering dedication and expertise in promoting inclusivity and diversity in business.

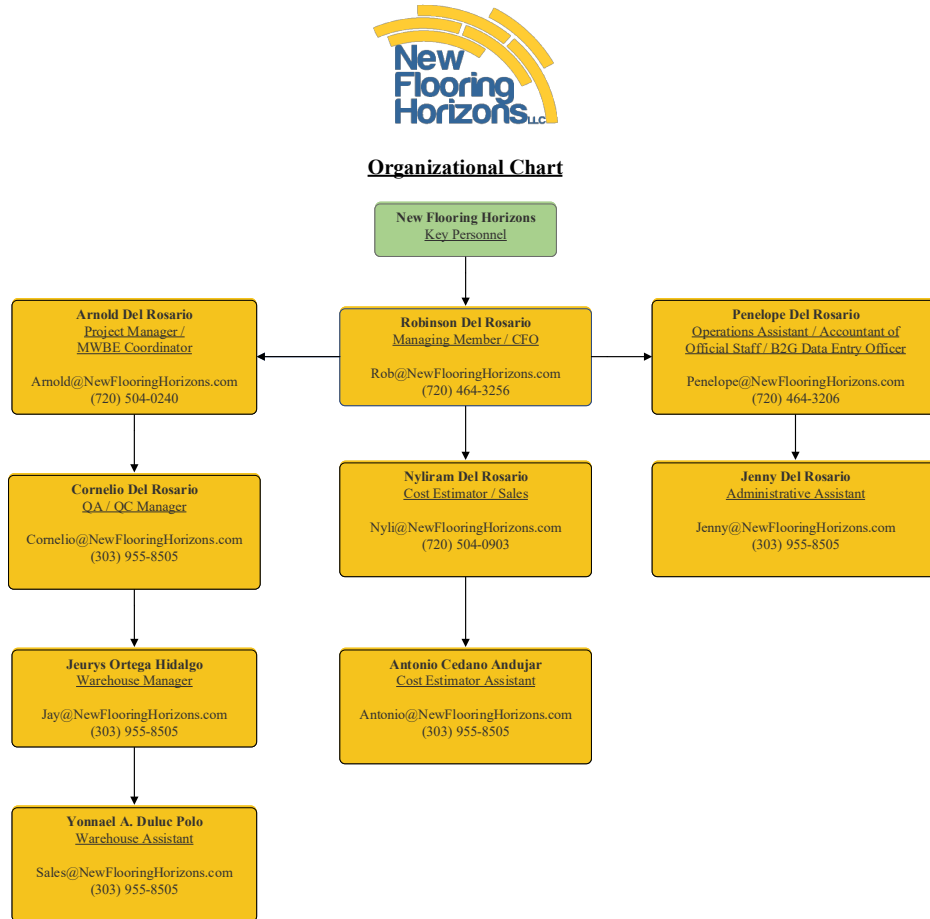
Arnold has the capacity and experience to manage all the components and ordinances related to this program. With a solid commitment to equal opportunity, he has played a pivotal role in fostering the growth and success of minority businesses within the local community. Our proposed MWBE coordinator is well-informed about the meeting protocols and diligently ensures adherence to reporting requirements.

Arnold's expertise in coordinating with small businesses facing disadvantages based on race, color, or gender has empowered him to successfully facilitate connections between minority and women-owned businesses and valuable resources and opportunities. Through his knowledge and experience, he has been instrumental in fostering a supportive ecosystem that enables these businesses to thrive and overcome barriers. Arnold's dedication to equity and inclusion is evident in his efforts to bridge the gap and create pathways for underrepresented entrepreneurs to access the resources they need to succeed.

To ensure continuity and substance in our operations, New Flooring Horizons has designated Arnold to fulfill the roles of both project manager and MWBE Coordinator. Penelope Del Rosario will handle the B2G data entry, payment allocation, and reporting tasks under Arnold's supervision. Regarding our leadership structure, Rob Del Rosario serves as the Managing Member and Chief Financial Officer (CFO) of New Flooring Horizons. Rob plays a vital role in the company's overall management and financial decision-making processes. Please see the organizational chart on page 3 for the structure and contact information of New Flooring Horizons' key personnel.

Furthermore, refer to the **Technical Assistance and Support Service** section within this document for more information on some of the efforts made by Arnold Del Rosario to engage and assist minority businesses. His commitment to equity and inclusion is further highlighted through the initiatives outlined in that section, demonstrating his proactive approach to providing technical assistance, support, and valuable guidance to empower and uplift minority business owners.

## Organizational Chart



## **MWBE Utilization Strategies**

***Describe the strategies and tactics Proposer is and will use to increase the participation of new and existing MWBE businesses in contracting opportunities.***

New Flooring Horizons is dedicated to increasing the participation of new and existing MWBE businesses in contracting opportunities. Although our organization is a certified MWBE firm and aims to self-perform as much work as possible, we remain steadfast in our commitment to actively engage and promote additional MWBE participation. While we value our own capabilities and expertise, we recognize the importance of fostering a diverse and inclusive business environment. Therefore, we actively seek opportunities to collaborate with other MWBE-certified firms, ensuring a broader range of perspectives, expertise, and participation in our projects. By actively pursuing MWBE engagement, we demonstrate our dedication to promoting diversity, supporting MWBE businesses, and contributing to a more inclusive construction industry.

To achieve this, we have implemented several effective approaches. One of our key strategies is active participation in local outreach events and collaborations with general contractors, federal agencies, and local agencies mentioned below that conduct regular engaging conferences. By engaging in these events, we aim to foster stronger connections with MWBEs, expand our network, and create opportunities for collaboration and growth. The state of Colorado offers multiple sources to connect with minority businesses, such as:

- **Local agencies, events, and outreaches:**
  - DOT, DBE Networking events
    - Connect 2DOT
    - CDOT Small Business Collaborative Forum
  - DEN Networking events
    - Great Hall MWBE Trade Partner Circle
  - City and County of Denver Networking events
    - Coffee and Business Networking Event
    - DSBO Equity & Empowerment Council (DEEC) Meeting
- **Federal Agencies Directories:**
  - SBA – Dynamics Small Business Search
- **Vendor Directories Search:**
  - The B2G directory will be the primary source to search for MWBEs with specific NAICS codes to fulfill the requirements of city and county of Denver opportunities
  - As an alternative, the following directories will be used to find firms that may or not be MWBE certified, but their NAICS codes may be needed for the city and county contract opportunities:



- SDVOSB (Service Disable Veteran-Owned Small Business) vendor directory
- HUBZone (Historically Under-Utilized Business Zone) vendor directory
- 8(a) Business Development vendor directory
- WBE (Woman Business Enterprise) State and Federal vendor directory

Typically, the above-mentioned vendor directories are unrelated to the city and county of Denver. Nonetheless, they monitor a substantial number of businesses with a socio-economic status that qualifies them for certification with the city and county of Denver. By utilizing other business directories not directly associated with the city, we expand our reach, and allow us to encourage non-certified businesses to register for certification opportunities with the City and County of Denver.

- **Chambers of Commerce and associations used by New Flooring Horizons as a resource to align with MWBE certified firms:**
  - HCC - Hispanic Chamber of Commerce
  - Black Construction Group
  - AGC (Associated General Contractors of America)
  - NMSDC (National Minority Supplier Development Council)
  - SAME (Society of American Military Engineers)
  - PTAC (Procurement Technical Assistance Centers)
- **Networking process with MWBEs:**
  - When assisting to networking events, we are searching for MWBE-certified contractors to reach the socio-economic goals of the City and County of Denver contract opportunities previously identified.
  - We inform potential partners about our MWBE certification and our enthusiastic willingness to collaborate with other MWBE-certified firms.
  - We proactively market New Flooring Horizons' capability statement.
  - We efficiently gather contact information and promptly follow up.
  - During networking events, if we come across MWBE businesses that are not yet certified with the City and County of Denver, we will actively educate and guide them on the process of obtaining certification. Our aim is to increase the likelihood of future engagement with these businesses and enhance profitability while also fulfilling our engagement goals.
  - We embrace and appreciate word-of-mouth connections and referrals.
  - New Flooring Horizons will organize internal networking events to facilitate connections and collaboration among MWBE certified firms.
  - We will document the progress made on MWBE firms in accordance with the requirements set by the city.
- **B2B Outreach Events:**
  - B2B (Business-to-business) refers to networking events conducted between companies rather than between a company and individual consumers such as a

government agency. Examples of networking events with some notorious general contractors are:

- JE Dunn Construction – Outreach Events
- GH Phipps – Outreach Events
- PCL – Outreach Events

By leveraging these platforms, New Flooring Horizons will continue to advocate for MWBE inclusion and actively seek partnerships promoting diversity, equity, and opportunities within the contracting industry.

## Technical Assistance & Support Services

*Describe the assistance and/or guidance that Proposer is and will provide to MWBE businesses that helps move this next generation of small businesses forward. This assistance and/or guidance could include technical, financial, or support services to the MWBE businesses that allow them to have meaningful participation in this or other contracts with the Proposer or other business partners. Examples of such assistance and guidance may include but are not limited to quality control, bonding, insurance assistance, prompt payment, mentoring programs, joint ventures, workforce development, technical assistance, access to capital platforms, etc.*

New Flooring Horizons intends to assist MWBE enterprises by providing comprehensive assistance and direction in as many areas as possible while self-performing its commitment of 50% or more MWBE participation. Recognizing the unique challenges faced by these businesses, New Flooring Horizons will go above and beyond to ensure their success. We offer support in multiple areas, including quality control, workforce development, technical assistance, and access to capital. It is important to note that we also coach other MWBE firms on prompt payment practices as we are compliant and understand the current MWBE ordinance on the subject. Our intention is to apply the existing processes for technical assistance and support services to all MWBE firms, regardless of their certification status (both certified and non-certified). We are currently working with minority-owned businesses that are not presently certified as MWBEs by the City and County of Denver; however, efforts are being made to obtain certification. Here are a few examples of recent professional collaborations in which we have participated to promote our Technical Assistance and Support services:

- **Nuevo Flooring** - As a valued sub-contractor of New Flooring Horizons, Nuevo Flooring has benefited from our comprehensive support and training. We have extended our expertise to Nuevo Flooring in the administrative realm, equipping them with the knowledge and skills to develop critical compliance documentation in the construction field. Additionally, we have provided technical assistance and guidance to Nuevo Flooring when dealing with complex flooring installation challenges. Our collaborative efforts with Nuevo Flooring exemplify our commitment to empowering our sub-contractors, fostering their growth, and ensuring the highest standards of quality and compliance in every project we undertake together.
- **Linares Flooring** – In addition to bolstering the financial stability of Linares Flooring (a subcontractor), New Flooring Horizons has actively assisted in the creation of professional invoices and the capturing of supporting documentation. Recognizing the importance of robust quality control measures, New Flooring Horizons has worked closely with Linares Flooring to enhance its quality control

program. By collaborating on the development of professional invoices and ensuring the capture of necessary supporting documentation, New Flooring Horizons aims to improve the overall efficiency, accuracy, and transparency of Linares Flooring's operations. This comprehensive approach reinforces New Flooring Horizons' commitment to excellence and its dedication to fostering a strong partnership with Linares Flooring, driving both financial stability and quality assurance within its working relationship.

- **Carrasco Project Management** – Carrasco Project Management, a minority, service-disabled veteran, and women-owned business, has received extensive support from New Flooring Horizons to foster her success as a contractor. Through mentorship and guidance, New Flooring Horizons has assisted Carrasco Project Management in various activities, including proposal development, to enhance its competitiveness. Together, we have conducted project walk-throughs, surveying sites to identify the scope of work and providing valuable counseling. Multiple meetings have been held to review upcoming opportunities and explore avenues for collaboration. New Flooring Horizons has also provided assistance in proposal pricing, drawing from their own lessons learned in the industry. Additionally, we have encouraged Carrasco Project Management to pursue MWBE certification with the City and County of Denver, promoting their inclusion in contracting opportunities. Through these comprehensive efforts, New Flooring Horizons demonstrates its commitment to fostering the success and growth of diverse contractors, such as Carrasco Project Management, promoting equity and diversity within the industry.
- **809 Flooring** – 809 Flooring, owned by an employee of New Flooring Horizons, is undergoing the transition to become an independent contractor. New Flooring Horizons is actively supporting 809 Flooring throughout this process by providing guidance on obtaining insurance, workers' compensation, and other necessary requirements to ensure compliance with the city and state regulations in Colorado. Recognizing the financial needs associated with starting a new business, New Flooring Horizons has extended a small loan to 809 Flooring to assist in acquiring the necessary equipment. Furthermore, New Flooring Horizons continues to mentor and guide 809 Flooring, offering expertise on the essential steps required to establish and operate a successful business. This comprehensive support from New Flooring Horizons demonstrates their commitment to fostering the growth and success of 809 Flooring, facilitating their journey towards independence and prosperity in the industry.

With a proven track record and unwavering commitment, we strive to ensure that our sub-contractors and other businesses receive the utmost level of technical assistance and support in their endeavors. Our genuine care for their success drives us to empower them with the necessary knowledge, tools, and solutions to overcome challenges and achieve their goals. As we continue on this path, we aim to set an example for other MWBE (Minority and Women-Owned Business Enterprise) firms, showcasing the importance of fostering a supportive and empowering

environment. Through our dedication, we aspire to inspire and uplift MWBE firms, fostering their growth and contributing to a more inclusive and prosperous business landscape.

## **Procurement Process**

***Describe Proposer's procurement process (including policies and procedures) and provide details on the principles that will be used throughout the process to remove barriers in an effort to promote equity and how you ensure that these efforts flow down to all tiers of sub-contractors and sub-consultants.***

At New Flooring Horizons, we have developed a comprehensive and inclusive procurement process that reflects our commitment to promoting equity and removing barriers for all participants. Our procurement policies and procedures are designed to ensure fairness, transparency, and equal opportunities for businesses at all tiers, including sub-contractors and sub-consultants.

To promote equity and ensure that our efforts flow down to all tiers, we have implemented several key strategies. We have established clear evaluation criteria that focus on merit and quality rather than solely on size or existing relationships. This allows us to assess proposals objectively, giving all businesses an equal opportunity to demonstrate their capabilities.

Additionally, as part of our commitment to promoting equity and supporting the financial stability of our sub-contractors, New Flooring Horizons has implemented a prompt payment policy for ongoing flooring service agreements. We understand the importance of prompt payment and timely compensation for our sub-contractors' hard work and dedication. Therefore, we have established a payment timeline of 7 days after the submission of invoices to ensure prompt payment on certain projects. If the invoice is not acceptable by New Flooring Horizons, we will send written notice to the sub-contractor within 10 days of the invoice submission to address the rejected invoice and process payment no later than 35 days after receipt of the accepted invoice per the city ordinance. This expedited payment process ensures that our sub-contractors receive the compensation they are owed promptly, contributing to their cash flow and overall financial well-being. By prioritizing prompt payment and timely compensation, we aim to cultivate strong and mutually beneficial relationships with our sub-contractors, fostering a collaborative and equitable business environment.

Furthermore, we actively engage with MWBEs and other disadvantaged businesses through outreach events, networking platforms, and partnerships with organizations that support diversity and inclusion. We use the mentioned platforms and events to advertise upcoming opportunities and promote MWBE participation. We provide guidance and support to help these businesses navigate the procurement process, ensuring they have the tools and resources needed to compete on a level playing field.

When we find an opportunity that aligns with our current capabilities, a study is made to determine if New Flooring Horizons can perform at least 50% of the scope of work. Using the B2G directory for our selection process primarily, we use the NAICS code search bar for

prospects that will fulfill our needs and reach MWBE goals. We contact the potential sub-contractors and schedule an online or personal meeting to get to know and discuss project details to determine if we are a good fit for the project and collaboration. We also apply the cost-effective procurement guidelines to ensure competitiveness between subcontractors when bidding. While efforts are being made to collaborate with MWBE firms it is essential to note that all actions are being recorded as a good-faith effort to achieve New Flooring Horizons' committed goals. All documented efforts will be available to DSBO and related agencies upon request. We take MWBE compliance seriously and will adhere to termination, replacement, and substitution processes if the situation warrants the need with another MWBE firm.

New Flooring Horizons maintains open and transparent communication with the Department of Small Business Services (DSBO). As part of our dedication to compliance and accountability, we assure the DSBO that we will promptly notify them of any changes related to our leadership, firm size, or any other pertinent information that may impact our operations or contractual agreements. Although a significant portion of the businesses we collaborate with are minority firms, we want to emphasize that our procurement process is implemented for all sub-contractors, regardless of their MWBE certification status. We maintain an inclusive approach that applies uniformly to both MWBE certified and non-MWBE certified sub-contractors. This ensures that all businesses have equal opportunities to participate in our projects and benefit from our procurement process. Our commitment to fairness and inclusivity is fundamental to our operations, allowing us to create a level playing field for all sub-contractors involved in our projects.

Our organization is committed to continuously improving our procurement process to address any barriers that may hinder equitable participation. We regularly assess our policies and procedures, seeking input from stakeholders and engaging in ongoing dialogue with MWBEs and other diverse businesses. By fostering an inclusive and equitable procurement environment, we aim to create opportunities for all, driving positive change and supporting the growth and success of a diverse and vibrant business community.

In conclusion, New Flooring Horizons is dedicated to an inclusive procurement process that promotes equity. Our prompt payment policy ensures sub-contractors' financial stability, with compensation following or surpassing the guidelines of the payment ordinance established by the city of Denver. We evaluate businesses based on merit, fostering collaboration and equal opportunities. Engaging with MWBEs and disadvantaged businesses, we provide guidance and support for successful participation. We are committed to fostering open and transparent communication with the DSBO. Through continuous improvement and ongoing dialogue, we cultivate an inclusive and equitable environment, driving positive change and supporting a diverse business community.



## Communication and Vendor Management

***Describe Proposer's procurement process (including policies and procedures) and provide details on the principles that will be used throughout the process to remove barriers in an effort to promote equity and how you ensure that these efforts flow down to all tiers of sub-contractors and sub-consultants.***

Effective communication and vendor management are essential pillars of success for any organization, and at New Flooring Horizons, we recognize their paramount importance. As a reputable flooring company, we place great emphasis on establishing clear and efficient communication channels with our vendors, sub-contractors, and partners. We understand that seamless collaboration, timely information sharing, and transparent coordination are crucial for delivering projects on time, within budget, and to the highest standards of quality. Through our robust vendor management practices, we strive to foster strong relationships, align work with contract requirements, and ensure smooth project execution. With a focus on effective communication strategies and comprehensive vendor management, we are dedicated to creating a collaborative and productive environment that yields successful outcomes for all collaborators involved.

New Flooring Horizons places a strong emphasis on safety, ensuring that all sub-contractors are OSHA 10 and/or OSHA 30 certified. Moreover, our own staff members are also certified in their respective areas, prioritizing a culture of safety throughout our projects. By adhering to these certifications, we create a secure work environment for all stakeholders involved.

Recognizing the importance of technical training, we actively coordinate training programs to enhance the expertise of both our sub-contractors and employees. We believe in equipping them with the necessary skills and knowledge to excel in their respective roles. This comprehensive training covers a wide range of technical aspects, ensuring that our team is well-prepared to deliver high-quality results.

In addition to technical training, we understand the significance of administrative training in supporting the success of our sub-contractors. We provide comprehensive guidance and training on various administrative tasks, including correct invoicing practices, capturing project documentation, bidding procedures, estimation, communication protocols, quality control and quality assurance measures, business administration, and proper scheduling. By empowering our sub-contractors with these skills, we promote efficiency and professionalism throughout the project lifecycle.

At New Flooring Horizons, transparency and performance control are fundamental principles. We ensure that our terms and conditions are clearly communicated and readily accessible to all stakeholders. Multiple meetings are conducted, with well-defined agendas and tasks related to the meeting, ensuring that everyone is aligned with project goals. Detailed meeting minutes

are captured and documented, providing a comprehensive record of discussions and decisions made.

To maintain proper project documentation, we have implemented robust procedures. Daily reports are diligently prepared, capturing the progress made on-site. Pictures are taken regularly to document the daily work, while work orders are generated to align with the scope of work. Invoices from sub-contractors are meticulously recorded and associated with specific work orders. Additionally, we maintain a well-tracked project schedule, promptly addressing any changes or adjustments in a comprehensive manner.

New Flooring Horizons takes pride in maintaining a strong track record of professional integrity and effective dispute resolution. We have never been involved in any trials or significant disputes. Our emphasis on transparency, good faith, and teamwork creates an environment that minimizes conflicts and promotes a collaborative approach to project execution. In the rare instance that an issue arises, we proactively address it promptly and at the lowest level possible, seeking a fair and equitable resolution. Our commitment to fostering open communication and a culture of trust ensures that potential disputes are handled with efficiency and professionalism.

Through our comprehensive approach to safety, technical training, administrative training, transparent terms, and conditions, meticulous project documentation, and proactive dispute resolution, New Flooring Horizons establishes itself as a trusted partner in the industry. We continuously strive to raise the bar, ensuring that our sub-contractors and employees receive the support and guidance they need to excel and deliver exceptional results.



## Past Performance

*Provide examples where the Proposer has been successful in promoting equity, diversity, and inclusion both internally and externally. Describe practices of Proposer's efforts and initiatives towards youth mentorship & development, employee recruitment, training, development, and succession planning to promote equity, diversity, and inclusion. Describe how the Proposer has promoted these values to both businesses and communities that they serve. Describe times when the Proposer has been successful in promoting the participation of MWBE businesses and/or any assistance provided to the MWBE businesses that promoted their overall growth and success. Examples of such promotion may include but are not limited to, bonding and insurance assistance, mentor-protégé programs, prompt payment, workforce expansion, innovative and successful partnering with an MWBE firm (i.e., joint venture, performing as a subcontractor to an MWBE, etc.), technical assistance, access to capital platforms and community outreach.*

At New Flooring Horizons, we are committed to promoting diversity and providing employment opportunities to individuals from minority backgrounds. Despite challenges stemming from the high unemployment rate in Denver, Colorado, we have actively sought to increase diversity within our workforce. Our dedicated focus on employee recruitment has led us to explore alternative strategies such as utilizing the H-2B Visa program, remote work options, and recruiting from other states. These efforts showcase our determination to overcome recruitment challenges and foster a diverse workforce that reflects our values.

For the past four years, New Flooring Horizons has actively engaged minority small businesses in the Denver Housing Authority (DHA) On-Call Flooring Service projects. We have collaborated on projects such as Denver Housing Authority Contracts #2619B and #2722B, contributing to the growth and success of these minority businesses.

Training and development are integral to our approach. We place a strong emphasis on providing training to our employees and contractors, ensuring they have the necessary skills and knowledge to excel in their roles. Further details about our training programs can be found in the **Communication and Vendor Management** section of this document.

Succession planning is a crucial aspect of our organizational strategy. We practice cross-training and scaling individuals to more challenging positions as they become proficient in their assigned responsibilities. This approach ensures a smooth transition and continuity within our workforce, supporting long-term sustainability and growth.

While we haven't established formal youth mentorship and development programs yet, it is one of our future objectives. We recognize the importance of nurturing the talent and potential of young individuals, and we are committed to implementing such programs to support their growth and development.

For additional guidance and examples of our efforts to promote MWBE business participation and assistance, please refer to the **Technical Assistance & Support Services** section within this document. It highlights our commitment and track record to supporting MWBE businesses and fostering their success within the industry.

To summarize, at New Flooring Horizons, our commitment to promoting diversity, providing employment opportunities, and supporting the growth of minority businesses is unwavering. We have taken a comprehensive approach to promoting these values, not only within our own organization but also in the businesses and communities we serve. We actively engage with businesses, highlighting the benefits of diversity and the importance of inclusive practices. By collaborating with minority small businesses in projects like the Denver Housing Authority, we not only contribute to their growth and success but also serve as a role model for other companies. Our focus on training and succession planning ensures that our workforce is equipped with the necessary skills and knowledge, allowing us to deliver exceptional services to our clients while promoting equity and inclusion. Additionally, we recognize the value of mentorship and development programs for young individuals and are committed to implementing such initiatives in the future. New Flooring Horizons remains steadfast in our dedication to driving positive change and creating a vibrant business community that embraces diversity, equity, and inclusion.

## Proposer's Culture

*Describe how EDI has been promoted internally and rooted within your company through programs that include but are not limited to 1) company policy and programs that advance equity, diversity, and inclusion priorities, 2) employment practices of recruitment/hiring, employee development/advancement, training (i.e., implicit bias), and 3) expectations of valuing and actively collaborating through partnerships with sub-contractors /sub-consultants.*

At New Flooring Horizons, we take great pride in our status as a service-disabled veteran and minority-owned company. We firmly believe in equal opportunity and do not discriminate in our hiring practices based on gender, race, color, ethnicity, or sexual orientation. Our commitment to creating an inclusive workplace extends to every aspect of our operations.

Rob Del Rosario, the managing member of our company, brings a wealth of experience as an Equal Opportunity Advisor during his years of service in the US Army. With this background, he is deeply committed to fostering an atmosphere of respect, diversity, and inclusion within our organization. Rob actively enforces policies that promote fairness, equity, and an environment where every individual feels valued and respected.

Our dedication to creating an inclusive work culture goes beyond meeting legal requirements; it is ingrained in our company's core values. We prioritize diversity and ensure that our hiring practices are based solely on merit, skills, and qualifications. We actively seek out and welcome individuals from all walks of life, as we believe that diversity fuels innovation and strengthens our company.

By embracing a culture of respect, diversity, and inclusion, we create an environment where every team member can thrive and contribute their unique perspectives and talents. This approach not only enhances employee morale but also allows us to better serve our diverse clientele and engage in meaningful partnerships with sub-contractors and sub-consultants.

Our company remains steadfast in its commitment to nurturing an inclusive workplace that celebrates diversity and provides equal opportunities for all. We firmly believe that by embracing and valuing our differences, we can unlock the full potential of our team and achieve exceptional results together, and we will continue to promote such values as a never-ending endeavor.

## Future Initiatives

*Provide a roadmap of the work Proposer intends to do over the next 5 years to promote equity, diversity, and inclusion both internally and externally. Describe practices Proposer intends to use in youth mentoring & development, employee recruitment, training, development, and succession planning to promote equity, diversity, and inclusion. Describe any plans Proposer has made to promote these values to both businesses and communities that they serve.*

New Flooring Horizons has already taken significant steps toward achieving the objectives outlined in this narrative. With a track record of promoting equity, diversity, and inclusion, we are proud of the progress we have made. However, our commitment does not stop there. In the coming years, we will expand our efforts to reach out to more minority businesses and further cultivate a workplace that embraces diversity and inclusion.

### Internally

Our firm will continue to prioritize initiatives in youth mentoring and development. Recognizing the importance of nurturing the next generation of diverse leaders, we will forge strategic partnerships with educational institutions, vocational programs, and community organizations. Through mentorship programs, internships, and apprenticeships, we will provide young individuals with the opportunity to gain hands-on experience and receive valuable guidance in the flooring industry.

To ensure a diverse and inclusive workforce, New Flooring Horizons will implement progressive practices in employee recruitment. We are committed to actively seeking out talent from diverse backgrounds and underrepresented communities. By creating a dynamic and inclusive workplace that values different perspectives and experiences, we will foster an environment where everyone can thrive. Furthermore, we will invest in ongoing training and development programs to empower our employees with the necessary skills and knowledge for growth.

Succession planning is a crucial aspect of New Flooring Horizons as we strive to cultivate diverse leadership within our organization. By implementing succession strategies that prioritize diversity and inclusion, we will establish a pipeline of diverse leaders who can champion positive change and promote equitable practices within our company.

### Externally

Our organization remains dedicated to promoting our values to the businesses and communities we serve. We will actively engage with industry partners, trade associations, and community organizations to share best practices and promote diversity, equity, and inclusion. This includes participating in local outreach events, conducting educational workshops, and providing resources to support businesses in their own endeavors to foster inclusive environments.

Moreover, we will collaborate with community organizations to develop initiatives that ensure equitable access to opportunities for underrepresented individuals. By supporting local community development programs, sponsoring scholarships, and contributing to community-driven projects, we will contribute to creating a more inclusive and empowered society.

We will promote and encourage minority firms to become MWBE certified with the City and County of Denver as part of our ongoing efforts to support equity and diversity. By obtaining MWBE certification, these firms can gain access to a wide range of contracting opportunities and resources. Additionally, we will explore the potential for developing joint ventures with certified minority firms, fostering collaboration, and creating mutually beneficial partnerships.

In line with our commitment to promoting equity and diversity, we will also advise minority firms to take advantage of their socio-economic status by seeking certification in other federal and state programs. By acquiring certifications such as 8(a), HUBZone, or DBE (Disadvantaged Business Enterprise), these firms can unlock further opportunities for growth and development.

We believe that supporting minority firms in obtaining certifications and exploring joint ventures will not only enhance their business prospects but also contribute to a more inclusive and diverse business landscape. By sharing this knowledge and providing guidance, we aim to empower these firms to leverage their socio-economic status and maximize their potential for success.

To conclude, New Flooring Horizons is resolute in our commitment to being a catalyst for change in the flooring industry and the communities we serve. Through the implementation of these comprehensive initiatives, we aim to foster a culture of equity, diversity, and inclusion both internally and externally. By doing so, we strive to create a more vibrant and equitable future for all individuals, regardless of their background or identity. Through these collective efforts, New Flooring Horizons is committed to fostering a business environment where minority firms can thrive, access new opportunities, and contribute to the overall economic growth of our communities.

**Signatory Page**

This agreement has been executed by the signatories listed below. In addition to all applicable provisions of the MWBE Ordinance and any corresponding Rules and Regulations, New Flooring Horizons LLC shall comply with the requirements of this Approved Plan. Updates to this plan will be performed annually by New Flooring Horizons LLC and approved by DSBO, beginning in July 2023 or at the request of DSBO.



Arnold Del Rosario  
MWBE Coordinator  
Project Management  
Date: 07/19/2023  
New Flooring Horizons



Robinson Del Rosario  
CFO  
Managing Member  
Date: 07/19/2023  
New Flooring Horizons

*Brittany Eroen*

Brittany Eroen  
Assistant Director, Compliance  
Date: 7/19/2023  
Division of Small Business  
Opportunity (DSBO)  
(delegated authority from  
Director)