

**SAMPLE AGREEMENT FOR THE PROVISION OF  
EVENT STAFFING SERVICES  
DIVISION OF THEATRES AND ARENAS**

**THIS AGREEMENT FOR THE PROVISION OF EVENT STAFFING SERVICES FOR THEATRES AND ARENAS DIVISION** (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ (the "Effective Date"), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, hereinafter referred to as the "City," and \_\_\_\_\_, a Colorado corporation, with an address of \_\_\_\_\_, hereinafter referred to as the "Contractor."

**WITNESSETH:**

**WHEREAS**, the City desires to retain the Contractor to provide Event Staffing Services as needed to various Theatres and Arenas venues and facilities;

**WHEREAS**, the Contractor possesses the qualifications required by the City;

**WHEREAS**, the City has solicited and received proposals for such services, and has chosen the proposal submitted by the Contractor, and

**WHEREAS**, the Contractor desires to provide Event Staffing Services to the City and is ready, willing and able to undertake and perform these services as an independent contractor.

**NOW, THEREFORE**, in consideration of the mutual agreements herein contained, and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. **FORM OF AGREEMENT**: This Agreement shall consist of the terms and conditions stated in the following numbered paragraphs and referenced exhibits. No other documentation related to this Agreement or generated as a result of this Agreement shall form a part of this Agreement unless it is expressly referenced and incorporated herein.

2. **CITY REPRESENTATIVE**: The Deputy Manager of General Services for Theatres and Arenas ("**Deputy Manager**") is the official City representative and directs all services performed under this Agreement. Communication between the Deputy Manager and the Contractor shall be directed through the Deputy Manager, or such other City agency representative(s) as the Deputy Manager shall designate.

Day-to-day operational coordination of all the Services (as hereinafter defined) to be provided by the Deputy Manager or their authorized representative. The Contractor agrees that during the term of this Agreement it shall fully coordinate all Services hereunder with the Deputy Manager.

3. **SERVICES TO BE PERFORMED**: The Contractor shall be responsible for providing best in class, customer-oriented Event Staffing Services described in the Statement of Work attached hereto as **Exhibit A** (the "Services") on an as-needed basis

when requested by the Deputy Manager. All records, finding, research, opinions and documentation prepared by the Contractor under this Agreement, if delivered to and accepted by the Deputy Manager shall become the property of the City. The Contractor also agrees to allow the City to review any of the procedures used by it in performing the services hereunder and to make available for inspection notes and other documents used in the preparation of any of the services required hereunder.

The Contractor agrees that the City may at any time require deletions, additions, or modifications to the Services ("Service Revisions") without invalidating the Agreement and without notice to the sureties. Service Revisions will be issued, in writing, and signed by the Deputy Manager or his/her authorized representative. The Contractor shall be paid for the actual quantity or quantities of such services whether increased or decreased. Additions or modifications of personnel shall be remunerated only on the Net Percentage Mark-up over wage costs listed in **Exhibit B**.

**4. TERM OF AGREEMENT:** The term of this Agreement shall be from the Effective Date and expire on November 30, 2013, unless earlier terminated in accordance with the terms of the Agreement.

The term of the Agreement may be extended for up to two (2) additional two (2) year renewal terms upon written notification of renewal from the Deputy Manager and written acceptance of such renewal by the Contractor prior to the expiration of the then current term.

**5. TIME IS OF THE ESSENCE:** The parties agree that in the performance of the terms, conditions, and requirements of this Agreement by the Contractor, time is of the essence.

**6. PAYMENT:**

A. The City agrees to pay the Contractor, and the Contractor agrees to accept as full and total compensation for the services and expenses provided under this Agreement, the percentage mark-ups given in **Exhibit B** over actual wage rates as required by current Living Wage rate and other wage rates to be determined in accordance with **Exhibit A**. The City will not compensate the Contractor for overtime worked by its employees.

B. The Contractor shall individually invoice Theatres and Arenas after each event. Each invoice shall be accompanied by a true and correct copy of the Payroll Records of all workers employed under the Agreement. The City will pay only for hours actually worked. Invoices must follow procedures and requirements provided in **Exhibit A**.

C. Notwithstanding any other provision of this Agreement, in no event shall the City be liable under the terms of this Agreement for any amount in excess of the sum of \_\_\_\_\_. The Contractor acknowledges that the City is not obligated to pay the Contractor for any services other than the Services, and that any additional work performed or services provided by Contractor in addition to the Services are performed at Contractor's risk and without authorization under this Agreement or obligation of the City. It is understood and agreed that any payment obligation of the City hereunder, whether direct or contingent, shall extend only to funds

appropriated by the Denver City Council for the purpose of this Agreement, encumbered by the expending City agency upon receipt of the Contractor's invoice for the purpose of the Agreement, and paid into the Treasury of the City. The Contractor acknowledges that (i) the City does not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

D. If, in the opinion of the Deputy Manager, the Contractor's performance under this Agreement becomes unsatisfactory, the City may notify the Contractor in writing, specifying the instances of unsatisfactory performance. The Contractor will have 24 hours from the time of such notice to correct any specific instances of unsatisfactory performance. In the event the unsatisfactory performance is not corrected within the time specified above, the City shall have the immediate right to perform the Services to its satisfaction and shall deduct the cost to cover same from any balances due or to become due the Contractor.

E. The City shall be entitled to Service credits as outlined below. The City may deduct such credits from any amounts that may be due the Contractor under this or any other agreement with the City.

<u>INCIDENT</u>	<u>CREDITS</u>
1) Insufficient number of personnel provided for event.	\$500.00 per incident
2) Incomplete, unacceptable, dirty uniform.	\$50.00 per incident
3) Improperly Staffed post.	\$100.00 per occurrence
4) Failure to maintain accurate records of hours worked.	\$100.00 per occurrence
5) Failure to provide and/or complete an in	\$50.00 per occurrence
6) Providing untrained or unqualified personnel .	\$ 200 per occurrence

Any instance of an imposition of credits shall be prima facie evidence of a deficiency in the Contractor's performance. The City shall document these and forwarded a copy of same to the Contractor.

**7. STATUS OF CONTRACTOR:**

It is understood and agreed by and between the parties that the status of the Contractor shall be that of an independent contractor and of a person retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.1(E)(x) of the Charter of the City; and it is not intended, nor shall it be construed, that the Contractor or any employee of the Contractor is an employee, officer, or agent of the City under Chapter 18 of the Denver Revised Municipal Code for any purpose whatsoever.

**8. TERMINATION OF AGREEMENT:**

A. The City has the right to terminate this Agreement, in whole or in part, with cause, on thirty (30) days written notice to the Contractor. However, nothing herein shall be construed as giving the Contractor the right to receive compensation for Services under this Agreement beyond the time when such Services become

unsatisfactory to the Deputy Manager.

B. If this Agreement is terminated by the City with cause, the Contractor shall be compensated for, and such compensation shall be limited to: (1) the sum of the amounts contained in invoices which it has submitted and which have been approved by the City; (2) the reasonable value to the City of the Services provided prior to the date of the termination notice, but which had not yet been approved for payment; and (3) the cost of any work which the Deputy Manager approves in writing which he determines is needed to accomplish an orderly termination of the Services.

C. The City has the right to terminate this Agreement, in whole or in part, without cause, on thirty (30) days written notice to the Contractor. However, nothing herein shall be construed as giving the Contractor the right to receive compensation for Services provided under this Agreement beyond the time when such Services become unsatisfactory to the Deputy Manager.

D. If this Agreement is terminated by the City, in whole or in part, without cause, the Contractor shall also be compensated for any reasonable costs it has actually incurred in performing the Services prior to the date of the termination.

E. If this Agreement is terminated in whole or in part, the City shall take possession of all materials, equipment, tools and facilities owned by the City which the Contractor is using by whatever method it deems expedient, and the Contractor shall deliver to the City all drafts or other documents it has completed or partially completed under this Agreement, together with all other items, materials and documents which have been paid for by the City, and these documents and materials shall be the property of the City.

F. Upon termination of this Agreement by the City, the Contractor shall have no claim of any kind whatsoever against the City by reason of such termination or by reason of any act incidental thereto, except for compensation for Services satisfactorily provided as described herein.

**9. WHEN 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 term, covenant, or condition or any default which may then exist on the part of the Contractor, and the making of any such payment when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the City with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more terms, covenants, or conditions of the Agreement shall be construed as a waiver of any succeeding or other breach.

**10. INDEMNIFICATION:** The Contractor hereby agrees to release, indemnify and save harmless the City, its officers, agents and employees from and against any and all loss of or damage to property or injuries to or death of any person or persons, including property and employees or agents of the City, and shall defend, indemnify and save harmless the City, its officers, agents and employees, from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, including Workers' Compensation claims of Contractor's employees, in any way resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement, or the Contractor's (including, if any, all of Contractor's agents or

subcontractors) occupancy of City-owned property or other property upon which work is performed under this Agreement, and including acts and omissions of the Contractor's employees, representatives, suppliers, invitees, Contractors and agents; provided however, that the Contractor need not indemnify or save harmless the City, its officers, agents and employees, from liability or damages resulting from the sole negligence of the City's officers, agents and employees. The Contractor's obligations set out in this paragraph shall survive the termination of this Agreement. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

**11. EXAMINATION OF RECORDS:** The Contractor agrees that any duly authorized representative of the City, including the City Auditor or his representative, shall, until the expiration of three (3) years after the final payment under this Agreement, have access and the right to examine any directly pertinent books, documents, papers and records of the Contractor, involving transactions related to this Agreement. The records shall be made available for inspection at a location within the Denver metropolitan area.

**12. NO AUTHORITY TO BIND CITY TO CONTRACTS:** The Contractor 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 Charter and ordinance.

**13. VENUE, GOVERNING LAW:** Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of Colorado law, the Charter of the City and County of Denver and the ordinances, rules, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any action arising hereunder shall be in the District Court for City and County of Denver, Colorado.

**14. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** The Contractor, its or her officers, agents, and employees shall cooperate and comply with the provisions of 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 the Contractor from City facilities or participating in City operations.

**15. CITY SMOKING POLICY:** The Contractor and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99 prohibiting smoking in all indoor buildings and facilities. The Contractor agrees that it will prohibit smoking by its employees and the public in any areas made available to the Contractor hereunder.

**16. ASSIGNMENT AND SUBCONTRACTING:** The City is not obligated or liable under this Agreement to any party other than the Contractor named herein. The Contractor understands and agrees that it shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior

written consent and approval of the City, which consent or approval may be withheld in the absolute discretion of the City; and in the event any such assignment or subcontracting shall occur, such action shall not be construed to create any contractual relationship between the City and such assignee or subcontractor, and the Contractor herein named shall remain fully responsible to the City according to the terms of this Agreement.

**17. NO WAIVER OF RIGHTS:** No assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be construed as a waiver of any succeeding or other breach.

**18. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under this Agreement, the Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.

**19. CONFLICT OF INTEREST:** The parties agree that no employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the Contractor further agrees not to hire or contract for services any employee or officer of the City which would be in violation of the Denver Revised Municipal Code, Chapter 2, Article IV, Code of Ethics, or Denver City Charter §§ 1.2.8, 1.2.9, and 1.2.12.

The Contractor agrees that it will not engage in any transaction, activity or conduct which would result in a conflict of interest under this Agreement. The Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor's own interests, or the interests of any party with whom the Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after it has given the Contractor written notice which describes the conflict. The Contractor shall have thirty (30) days after the notice is received to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

**20. INSURANCE:**

**A. General Conditions:** Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement stating "Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202. Such written notice shall be

sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior.” Additionally, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Contractor. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

**B. Proof of Insurance:** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverage. Contractor certifies that the certificate of insurance attached as Exhibit C, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City’s contract number be referenced on the Certificate. The City’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor’s breach of this Agreement or of any of the City’s rights or remedies under this Agreement. The City’s Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

**C. Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella, Contractor and subcontractor’s insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

**D. Waiver of Subrogation:** For all coverages, Contractor’s insurer shall waive subrogation rights against the City.

**E. Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such subcontractors as additional insured under its policies (with the exception of Workers’ Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

**F. Workers’ Compensation/Employer’s Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer’s Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor’s officers or employees who may be eligible under any statute or law to reject Workers’ Compensation Insurance shall effect such rejection during any part of the term of this

Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

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

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

**I. Excess/Umbrella Liability:** Contractor shall maintain excess liability limits of \$3,000,000. Coverage must be written on a "follow form" basis. Any combination of primary and excess coverage may be used to achieve required limits.

**J. Commercial Crime:** Contractor shall maintain \$1,000,000 in commercial crime insurance coverage. Coverage shall include theft of City's property by contractor's employees, including any extended definition of employee. City shall be named as Loss Payee as its interest may appear.

**K. Additional Provisions:**

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

- a) That this Agreement is an Insured Contract under the policy;
- b) Defense costs in excess of policy limits;
- c) A severability of interests, separation of insureds or cross liability provision; and
- d) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(2) For claims-made coverage:

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

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

**21. PAYMENT BOND AND PERFORMANCE BOND:**

A. A Performance Bond and a Payment Bond satisfactory to the City and County of Denver on the form required by the City, in an amount not less than Two



Hundred Thousand Dollars (\$ 200,000.00) is required of the Contractor to guarantee that it will perform the work in strict accordance with Agreement Documents and shall pay all debts incurred under this Agreement. The Surety named in the Bond must be authorized to do business in the State of Colorado.

B. This Bond must be either renewed annually by the Surety named in the Bond or replaced with an identical Bond covering the subsequent year of the Agreement issued by another Surety which has been approved in advance by the Deputy Manager. If the Deputy Manager does not receive written notice from the Surety in the manner provided in the Bond at least one-hundred and twenty (120) days before it expires or does not receive a substitute Bond in the form required by the City from an approved Surety at least one-hundred and twenty (120) days before the Bond expires, then the Contractor shall be in default of this Agreement and the Deputy Manager may immediately terminate this Agreement by giving the Contractor written notice of such default. If the City elects to extend the Agreement for up to two additional one year periods at the same prices, terms and conditions pursuant to Section 4 of this Agreement, the Contractor shall obtain and submit either an extension of the existing Performance, Payment and Guarantee Bond or the an identical Bond from another Surety that is acceptable to the City.

C. Under no circumstances shall the City be liable to the Contractor for any costs incurred or payments made by the Contractor to obtain an extension of an existing Bond or a new Bond.

D. The Contractor's Payment and Performance Bond is attached hereto as **Exhibit D**. Attorneys-in-Fact who sign Performance, Payment, and Guarantee Bonds must file with such Bonds a certified copy of their Power-of-Attorney to sign such Bonds that is certified to include the date of the Bond.

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

**23. PAYMENT OF LIVING WAGES:** Pursuant to Section 20-80 of the Revised Municipal Code, the Contractor shall pay every Covered Worker, as defined in § 20-80(a) D.R.M.C., employed by it directly upon the site of the work under this Agreement the full amounts accrued at the time of payment, the current living wage pursuant to § 20-80 D.R.M.C, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such workers. The Contractor shall post in a prominent place which is easily accessible to the Covered Workers the scale of wages to be paid to such workers.

The Contractor shall furnish to the City Auditor or his authorized representative, a true and correct copy of the payroll records of all Covered Workers working under this Agreement, either for the Contractor or any subcontractor. All such payroll records shall include information showing the number of hours worked by each Covered Worker, the hourly pay of such worker, any deductions made from pay, and the net amount of pay received by such Covered Worker. The payroll record shall be accompanied by a sworn statement of the Contractor that the copy is a true and correct copy of the payroll records of all Covered Workers working under this Agreement, either for the Contractor or a

subcontractor, that payments were made to the Covered Workers as set forth in such records, that no deductions were made other than those set forth in such records, and that all Covered Workers employed on work under this Agreement, either by the Contractor or any subcontractor, were paid the living wages as set forth in this Agreement.

If any worker to whom the living wages are to be paid, employed by the Contractor or any subcontractor to perform work hereunder, has not been or is not being paid a rate of wages required by this Section, the Deputy Manager may, at his option, by written notice to the Contractor, withhold further payment to the Contractor, or suspend or terminate the Contractor's right to proceed with the work or such part of the work as to which there has been a failure to pay the required wages. In the event of termination, the Contractor shall be liable to the City for any excess costs occasioned to the City thereby.

**24. ADVERTISING AND PUBLIC DISCLOSURE:** The Contractor 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 Deputy Manager, which will not be unreasonably withheld. Nothing herein, however, shall preclude the transmittal of any information to officials of the City, including without limitation, the Mayor, the Deputy Manager, member or members of City Council, or the Auditor.

**25. NO THIRD PARTY BENEFICIARY:** It is expressly understood and agreed 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 the Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement, including but not limited to subcontractors and suppliers. It is the express intention of the City and the Contractor that any person other than the City or the Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**26. DISPUTES:** All disputes of whatsoever nature between the City and Contractor regarding this Agreement shall be resolved by administrative hearing, pursuant to the procedure established by Denver Revised Municipal Code, Section 56-106. For the purpose of that procedure, the City official rendering a final determination shall be the City representative identified in Paragraph 2 hereof.

**27. TAXES, CHARGES AND PENALTIES:** The City shall not be liable for the payment of taxes, late charges or penalties of any nature, except as required by Denver's Revised Municipal Code.

**28. NOTICES:** Notices concerning the termination of this Agreement, notices of alleged or actual violations of the terms or conditions of this Agreement, and other notices of similar importance shall be made:

By Contractor to: Director of Theatres and Arenas (or his/her Designee)

\_\_\_\_\_

Denver, Colorado 80202

And by the City to: \_\_\_\_\_

\_\_\_\_\_

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**29. SURVIVAL OF CERTAIN PROVISIONS:** The parties understand and agree that all terms, conditions and covenants of this Agreement, together with any exhibits and attachments hereto, any or all of which by reasonable implication, contemplate continued performance or compliance beyond the expiration or termination of this Agreement (by expiration of the term or otherwise), shall survive such expiration or termination and shall continue to be enforceable as provided herein. Without limiting the generality of the foregoing, the Contractor's obligations for the provision of insurance and for indemnity to the City shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters or actions begun within that period.

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

**31. SEVERABILITY:** It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement, except for the provisions of this Agreement requiring prior appropriation of funds and limiting the total amount payable by the City, is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

**32. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other Agreement properly executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

**33. REMEDIES CUMULATIVE:** The remedies provided in this Agreement shall be cumulative and in no way affect any other remedy available to the City under law or equity.

**34. LEGAL AUTHORITY:**

A. The Contractor assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

B. The person or persons signing and executing this Agreement on behalf of the Contractor do hereby warrant and guarantee that he/she or they have been fully authorized by the Contractor to execute this Agreement on behalf of the Contractor and to validly and legally bind the Contractor to all the terms, performances and provisions herein set forth.

C. The City shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either the Contractor or the person signing the Agreement to enter into this Agreement. The City shall not be obligated to pay Contractor for any performance of the provisions of this Agreement after the City has suspended or terminated this Agreement as provided in this paragraph.

**35. NO CONSTRUCTION AGAINST DRAFTING PARTY:** Each of the Parties acknowledge that each of them and their respective counsel have had the opportunity to review this Agreement; and that this Agreement shall not be construed against any Party merely because this Agreement or any of its provisions, have been prepared by a particular Party.

**36. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:** This Agreement consists of Paragraphs 1 through 40, which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Exhibit A	Scope of Services
Exhibit B	Rates for Services
Exhibit C	Insurance Certificate
Exhibit D	Payment/Performance Bonds

In the event of (i) an irreconcilable conflict between a provision of Paragraphs 1 through 39, 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:

- Paragraphs 1 through 40
- Exhibit D
- Exhibit C
- Exhibit A
- Exhibit B

**37. OWNERSHIP OF WORK PRODUCT:** All reports, submittals and other documents submitted to the City or its authorized agents by the Contractor shall become and are the property of the City, and the City may, without restriction, make use of such documents and underlying concepts as it sees fit. The Contractor shall not be liable for any damage, which may result from any use of such documents for purposes other than those described in this Agreement.

**38. CITY EXECUTION OF AGREEMENT:** This Agreement is expressly subject to, and shall not be or become effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver.

**39. COUNTERPARTS OF THIS AGREEMENT:** This Agreement may be executed in two (2) counterparts, each of which shall be deemed to be an original of this Agreement.

**40. CONTRACTOR RECOMMENDATIONS:** At no cost to the City, Contractor agrees to deliver within one hundred twenty (120) days of the Effective Date,

a report detailing Contractor's analysis of the Theatres and Arenas Division Event Staffing operations and providing recommendations for possible changes that will create optimal efficiencies and effectiveness of the Event Staffing services program, and/or cost savings for the Theatres and Arenas Division.

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

A. This Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes, and any amendments (the "Certification Statute"). The Contractor is liable for any violations as provided in the Certification Statute.

B. The Contractor certifies that:

- (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
- (2) It will participate in either the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., or the employment verification program established by the Colorado Department of Labor and Employment under § 8-17.5-102(5)(c), C.R.S. (the "Department Program"), to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

C. The Contractor also agrees and represents that:

- (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (2) It shall not enter into a contract with a subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in either the E-Verify Program or the Department Program.
- (4) It is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement.
- (5) If it obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and the City within three (3) days. The Contractor will also then terminate such subcontractor if within three (3) days after such notice the subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

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

**ATTEST:**

**CITY AND COUNTY OF DENVER,  
a municipal corporation**

\_\_\_\_\_  
STEPHANIE O'MALLEY,  
Clerk and Recorder, Ex-Officio  
Clerk of the City and County of Denver

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

**RECOMMENDED AND APPROVED;**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Director  
Theatres & Arenas Division

DAVID R. FINE,  
Attorney for the City and County of Denver

By: \_\_\_\_\_  
Assistant City Attorney

**REGISTERED AND  
COUNTERSIGNED:**

By: \_\_\_\_\_  
Manager of Finance  
Contract Control No. RC01006

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

**CONTRACTOR:**

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

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

Date: \_\_\_\_\_