

CONCESSION AGREEMENT

This Concession Agreement is made by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation and home rule city of the State of Colorado (the “City”), and **HJB CONVENIENCE CORPORATION**, a Colorado corporation, whose address is 8585 W 14TH AVE, Suite B3, LAKEWOOD, CO 80215 (the “Concessionaire”).

WHEREAS, the City and County of Denver owns the real property commonly known as the Wellington Webb Municipal Office Building located at 201 West Colfax Avenue, Denver, Colorado 80202 (the “Property”).

WHEREAS, the City has chosen the Concessionaire from a competitive selection process and now desires to enter into this Concession Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter contained, the City and the Concessionaire agree as follows:

1. **CONCESSION RIGHTS GRANTED:** The City grants to the Concessionaire, subject to all of the terms, covenants and conditions of this Concession Agreement, the right, privilege and obligation to occupy, equip, furnish, operate, and maintain a convenience store in and upon the portion of the Property, and generally as located and depicted on the floor plan which is **Exhibit A** attached hereto (the “Concession Space”).
 - 1.1. The Concessionaire agrees that its use of the Concession Space shall be for the sole purpose of offering for sale at the Property food and non-alcoholic beverage services, as well as the sale of health and beauty aids, lottery tickets, greeting cards, gift cards, newspapers and other periodicals, bus passes, and small personal and office electronics, and for no other purposes, unless otherwise authorized in advance in writing by the City’s Director of Real Estate (“Director”), or his/her authorized representative.
 - 1.2. The Concessionaire acknowledges that the City fully retains the right to provide facilities and services for making available to its employees, and to the general public, food products, coffee and other beverages, and other goods or services, whether such facilities and services are provided directly by the City itself or through its separate Concessionaires, tenants, licensees or other providers.
 - 1.3. The Director, or his/her authorized representative, shall be responsible for administering this Concession Agreement for the City and will serve as the Concessionaire’s point of contact in regard to its day-to-day operations.
2. **TERM:** The initial term of this Concession Agreement shall be **10 years** commencing on **November 1, 2022**, (the “Commencement Date”) and shall expire on the date that is 10 years after the Commencement Date, which is anticipated to be **October 31, 2032** (the “Expiration Date”), unless extended or sooner terminated pursuant to the terms of this Concession Agreement. So long as Concessionaire is not in default under this Concession Agreement beyond applicable notice and cure periods, Concessionaire will have two (2) options to extend the term of this Concession Agreement each for an additional five year term (collectively, the “Renewal Terms” and each a “Renewal Term”), subject to the further provisions of this section. Concessionaire must exercise its option with respect to each Renewal Term, if at all, by giving written notice thereof to the City on or before the date that is 120 days prior to the then

applicable Expiration Date. Each Renewal Term will be on the same terms and conditions as this Concession Agreement, except the compensation payable to the City shall be as set forth in Section 3 below.

3. **COMPENSATION AND FEES:** The Concessionaire covenants and agrees that it shall pay to the City as compensation hereunder for the rights and privileges herein granted during the initial term a sum of **TWO THOUSAND FIVE HUNDRED SIXTY-THREE DOLLARS AND NO CENTS (\$2,563.00)** per month for years 1-5 and a rate of **TWO THOUSAND SIX HUNDRED THIRTY-NINE DOLLARS AND EIGHTY-NINE CENTS (2,639.89)** per month for years 6-10. If Parties exercise the first Renewal Term, compensation will be at a market rate as agreed between City and Concessionaire, but no less than **TWO THOUSAND SEVEN HUNDRED NINETEEN DOLLARS AND NINE CENTS (\$2,719.09)** per month and, if exercised, the second Renewal Term compensation will be at a market rate as agreed between City and Concessionaire, but no less than **TWO THOUSAND EIGHT HUNDRED AND SIXTY-SIX CENTS (\$2,800.66)** per month.
4. **PAYMENT OF THE CITY'S COMPENSATION:** The Concessionaire's compensation to the City shall be payable by the Concessionaire to the City in advance and without demand commencing on the first day of **November 1, 2022** and continuing on the first day of each calendar month throughout the term of this Concession Agreement. Any payments not made to the City within 5 days from the due date shall accrue interest at the rate of 15% per annum ("Past Due Interest Rate").
5. **PLACE AND MANNER OF PAYMENTS:** In all instances where the Concessionaire is required by this Concession Agreement to pay fees or other charges or payments to the City, such payments shall be made without notice or invoice, payable to the City's Manager of Finance. Each payment shall be delivered to the Office of the Director of Real Estate, 201 W. Colfax Avenue, Department 1010, Denver, Colorado 80202, or at such other place that the Director may hereafter designate to the Concessionaire and shall be made in legal tender of the United States. Any check given to the City shall be received by it subject to collection and the Concessionaire agrees to pay any charge incurred by the City for such collection.
6. **OPERATION OF CONCESSION SERVICES:** In the operation of the concession business herein authorized and in the manner and method of the conduct thereof, Concessionaire shall maintain a standard at or above the industry standard of a like business establishment and shall provide quality products of a standard that is acceptable within the industry for a like product and service, shall furnish prompt, courteous and efficient service adequate to meet all reasonable requests therefore and shall provide polite and inoffensive conduct and demeanor on the part of its representatives, agents, servants, and employees. In the event that the Director believes, in its reasonable discretion, that these standards are not being met the Director shall provide immediate notice of the assertion of any deficient standards and indicate what additional measure need to be taken to correct the standards or quality of products.
 - 6.1. Concessionaire agrees that its operation of its concession hereunder at all times shall comply with **Exhibit B, "Standards of Operation"** attached hereto and incorporated herein by reference. Concessionaire further agrees that **Exhibit B** may be revised from time

- to time by the City upon reasonable notice to the Concessionaire, and that in the event of such revisions.
- 6.2. Concessionaire will conduct its operations hereunder in conformity with such revised Standards of Operation so long as the same do not materially adversely affect Concessionaire's use of the Concession Space.
 - 6.3. Concessionaire shall comply with all applicable federal, state, and local laws and regulations governing food service establishments. Concessionaire agrees to obtain at its own expense, and to maintain at all times, all licenses and certificates necessary for the operation of a food service establishment and to comply with all applicable health, safety, and sanitary laws, regulations, and inspections concerning same.
7. **PROHIBITED ACTS:** Concessionaire shall not do or permit to be done anything which may unreasonably interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems, elevators, or portions thereof on the Concession Space or elsewhere in the Property, nor do or permit to be done anything which may unreasonably interfere with free access and passage in the Concession Space or the public areas adjacent thereto, nor hinder police, firefighting or other emergency personnel in the discharge of their duties.
 8. **UTILITIES AND OTHER SERVICES:** Concessionaire shall reimburse the City for its actual gas and electric usage on a monthly basis, as billed by the City. City will cover reasonable amounts of water and sewer costs.
 9. **REPAIRS, MAINTENANCE AND OTHER SERVICES:** The Concessionaire shall pay for and make all repairs, and shall provide all maintenance, to Premises and the Concessionaire Equipment (as defined below) as necessary for the proper use and enjoyment of the Concession Space, except as otherwise expressly provided herein.
10. **IMPROVEMENTS:**
 - 10.1. **Title to Improvements:** Except as stated in subsection 10.2 below, Concessionaire agrees no improvements shall be made to the Concession Space without the prior written authorization of the Director, which consent shall not be unreasonably withheld, conditioned or delayed, and that all improvements which are affixed to the realty shall become the property of the City and County of Denver, excepting trade fixtures that are temporarily adhered to the walls of the Property and belong to Concessionaire.
 - 10.2. **Improvements to be completed by Concessionaire:** At Concessionaire's expense, it will undertake the following improvements to the Property within 6 months of the Commencement Date:
 - 10.2.1. Remove sign band around inside walls.
 - 10.2.2. Paint the interior of the Property.
 - 10.2.3. Replace lightbulbs.
 - 10.2.4. Replace shelving, including Gondola retail shelving.
11. **REMOVAL OF CONCESSIONAIRE'S EQUIPMENT:** Concessionaire shall retain title to and shall remove, at its sole cost, prior to the expiration or termination of this Concession Agreement, all of Concessionaire's Equipment, as hereinafter defined. "Concessionaire's Equipment" shall mean all equipment, apparatus, machinery, signs, furnishings, trade fixtures, and personal property provided and installed by Concessionaire and used in the operation of the

business of Concessionaire but shall not include any fixtures, including any plumbing equipment installed pursuant to this Concession Agreement. If such removal shall injure or damage the Concession Space, Concessionaire agrees, at its sole cost and expense, at or prior to the expiration or termination of this Concession Agreement, to repair such injury or damage in good and workmanlike fashion and to place the Concession Space in the same condition as existed at the time of occupancy of the facility by the Concessionaire at the commencement of the term of this Concession Agreement. If Concessionaire fails to remove any of Concessionaire's Equipment by the expiration or termination of this Concession Agreement, the City may, at its option, keep and retain any such Concessionaire's Equipment or dispose of the same and retain any proceeds therefrom, and the City shall be entitled to recover from the Concessionaire any costs of the City in removing the same and in restoring the Concession Space in excess of the actual proceeds, if any, received by the City from disposition thereof.

12. PATENTS AND TRADEMARKS: Concessionaire represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names, or slogans used by it in its operations under this Concession Agreement. Concessionaire agrees to save and hold harmless the City, its officers, employees, and agents from and against any actual damages in connection with any actual or alleged infringement or any unfair competition or other similar claim arising out of the operations of Concessionaire under this Concession Agreement.

13. SECURITY: Concessionaire shall cause its officers, Concessionaires, agents, and employees to comply with any and all security requirements adopted or promulgated from time to time by the City. Concessionaire agrees that it will require its employees to submit to background checks at the request and expense of the City.

14. ADMINISTRATIVE HEARING: Disputes arising out of this Concession Agreement shall be resolved by administrative hearing before a hearing officer under contract with the City, following the procedures outlined in Denver Revised Municipal Code Section 56- 106, except that the responsible agency head shall be the Manager of the City's Department of General Services; provided, that the City shall retain its right to obtain an order of eviction in accordance with applicable state law. It is further agreed that no cause of action shall be brought against the City until there has been full compliance with the terms of this paragraph.

15. ASSIGNMENT AND RIGHT TO SUBCONTRACT: The Concessionaire shall not assign or transfer its rights under or any part of this Concession Agreement nor subcontract with respect to such rights without first obtaining the written consent of the City. Such consent will not be unreasonably withheld assuming the assignee meets the credit and operating requirements.

16. TAXES: The Concessionaire will duly pay and discharge all taxes, assessments and other governmental charges, if any, including without limitations any possessory use taxes, which are lawfully imposed on the Concession Space or the Concessionaire's operations hereunder.

17. INDEMNIFICATION:

17.1. The Concessionaire agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to this Agreement ("Claims"), unless such Claims have been

specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the Concessionaire or its subConcessionaires either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

- 17.2. The Concessionaire's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. The Concessionaire's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.
- 17.3. The Concessionaire shall defend any and all Claims, which may be brought or threatened against City and shall pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City will be in addition to any other legal remedies available to City and will not be the City's exclusive remedy.
- 17.4. Insurance coverage requirements specified in this Agreement in no way lessen or limit the liability of the Concessionaire under the terms of this indemnification obligation. The Concessionaire is responsible to obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.
- 17.5. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

18. INSURANCE:

- 18.1. **General Conditions:** The Concessionaire 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. The Concessionaire shall keep the required insurance coverage in force at all times during the term of the Agreement, including any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-VIII" or better. Each policy shall require notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices Section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, the Concessionaire shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices Section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. The Concessionaire 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 Concessionaire. The Concessionaire 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.

- 18.2. Proof of Insurance:** The Concessionaire may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. The Concessionaire certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the certificate of insurance. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of the Concessionaire'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.
- 18.3. Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), the Concessionaire and subConcessionaire's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees, and volunteers as additional insured.
- 18.4. Waiver of Subrogation:** For all coverages required under this Agreement, with the exception of Professional Liability – if required, the Concessionaire's insurer shall waive subrogation rights against the City.
- 18.5. SubConcessionaires and Subconsultants:** The Concessionaire shall confirm and document that all subConcessionaires and subconsultants (including independent Concessionaires, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Concessionaire and appropriate to their respective primary business risks considering the nature and scope of services provided.
- 18.6. Workers' Compensation and Employer's Liability Insurance:** The Concessionaire 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.
- 18.7. Commercial General Liability:** The Concessionaire shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate. Policy shall not contain an exclusion for sexual abuse, molestation, or misconduct.
- 18.8. Automobile Liability:** The Concessionaire shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired, and non-owned vehicles used in performing services under this Agreement.
- 19. LOSS OR DAMAGE:** The City shall not be liable or responsible to the Concessionaire for any loss or damage to any property or person occasioned by theft, fire, Act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, or order of any governmental entity other than the City.
- 19.1.** In the event of a fire or other casualty in or to the Concession Space, the Concessionaire shall immediately give notice thereof to the City. If the Concession Space, through no fault or neglect of the Concessionaire, its agents, employees, invitees or visitors shall be partially destroyed by fire or other casualty so as to render the Concession Space uninhabitable for the purposes of this Concession Agreement, and the City elects to repair the same, the

compensation (rent and common area maintenance payments) provided for herein shall abate until such time as the Concession Space is made habitable by the City.

- 19.2.** In the event of the total destruction of the Concession Space without fault or neglect of the Concessionaire, its agents, employees, invitees or visitors, or if from any cause the Concession Space shall be so damaged that the City shall decide not to rebuild (which decision the City may make in its sole discretion), then all compensation owed up to the time of such destruction or termination shall be paid by the Concessionaire and this Concession Agreement shall cease and come to an end.

20. COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS: Concessionaire in conducting any activity on the Concession Space shall comply with all 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 Materials or Special Wastes to the environment. 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), 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.

21. DEFAULT AND TERMINATION:

- 21.1. Default by Concessionaire:** Notwithstanding anything in this Concession Agreement to the contrary, the City may terminate this Concession Agreement if:

- 21.1.1. Any installment payment is in arrears and remains unpaid for a period of ten days, upon the giving by the City of ten days prior written notice to the Concessionaire of its intention to so terminate, unless the payment is made within the ten day period commencing upon the giving of such written notice; or
- 21.1.2. The City gives written notice of nonpayment of a rent installment as set forth in (1) above more than three times in any twelve-month period.
- 21.1.3. The Concessionaire fails to perform or observe any other provision of this Concession Agreement and such failure continues for thirty days after the City delivers written notice thereof to the Concessionaire, or for such longer period as may be reasonable required to cure such default, but not to exceed ninety days if the Concessionaire’s failure is of such nature that it cannot be cured within a thirty day period; provided that the Concessionaire commences such cure within the thirty day period and diligently prosecutes such cure to completion thereafter.

- 21.2. Default by the City:** Notwithstanding any provision to the contrary in this Concession Agreement, in the event that the City:

21.2.1. Fails to discharge fully any of its obligations imposed under this Concession Agreement or imposed by the Master Lease or a mortgage that is superior to this Concession Agreement;

21.2.2. Fails to make any repairs that this Concession Agreement or any law requires it to make, then the Concessionaire shall have the following remedies in addition to all other remedies at law and equity:

21.2.2.1. If an event of a default by the City occurs, the Concessionaire shall give written notice to the City in the manner herein set forth and shall afford the City a reasonable opportunity to cure any such default. If the City fails to cure any such default within thirty days, then the Concessionaire may terminate this Concession Agreement provided, however, that if the default cannot be cured within thirty days and the City is diligently attempting to cure the default, it shall provide written notice to the Concessionaire of the date, which shall not exceed ninety days from the date that it receives that Concessionaire's notice, that it will have fully cured such default. If notice of termination is so given, the City and Concessionaire shall not be relieved of any obligations to be performed up to the date of termination.

22. MECHANIC'S LIENS: The parties acknowledge that no right of lien against public buildings exists under Colorado law. In the event that a claim of such right is filed before a court of competent jurisdiction as a result of any work performed, or materials or supplies furnished to the Concession Space, then the Concessionaire shall pay or cause to be paid all costs for work authorized to be done which may result in liens against the City's or the Master Lessor's interest in the Property or the Concession Space.

22.1. In the event that any liens are filed or recorded against the Property or the Concession Space on account of work done for or materials supplied to or on behalf of the Concessionaire, or should any action affecting the title to the Property or the Concession Space be commenced, the Concessionaire shall cause such liens to be released of record within thirty days after receipt of notice thereof or may, in good faith, contest the validity of any such liens. If the Concessionaire desires to contest the validity of any claim of lien, it shall cause the lien to be released of record by the posting of adequate security with a court of competent jurisdiction as may be provided by applicable law. If a final judgment establishing the validity of the contested amount is entered by a court of competent jurisdiction, then the Concessionaire shall pay and satisfy any such adverse judgment that may be rendered against the Property or the Concession Space before the enforcement of any judgment against the City or the Master Lessor.

23. RIGHT TO ENTER: The City and its authorized agents or employees may at any reasonable time enter the Concession Space to inspect and examine the Concession Space, to make and perform improvements, to comply with applicable laws, ordinances, rules, orders, or other governmental regulations, and to post notices of non-responsibility including, but not limited, to those provided for by C.R.S. § 38-22-105(2), as may be amended from time to time. To the extent possible during Concessionaire's hours of operation, the City shall make reasonable efforts to coordinate its entry with a Concessionaire representative, except, however, in cases

of emergency, City may enter Concession Space without a Concessionaire representative present.

- 24. SURRENDER OF POSSESSION:** The Concessionaire agrees to surrender possession of the Concession Space to the City at the expiration or sooner termination of this Concession Agreement, or upon the expiration of any renewal or holdover, in as good repair and condition as when the Concessionaire obtained the Concession Space excepting only ordinary wear and tear and decay, or damage by the elements, Act of God, insurrection, riot, invasion or commotion, or of military or usurped power. Upon the expiration or sooner termination of this Concession Agreement, the Concessionaire shall remove all of its furniture, fixtures, and other personal effects from the Concession Space. In the event Concessionaire does not remove all of its furniture, fixtures, and other personal effects from the Concession Space at the expiration of this Concessionaire Agreement, the City may take possession of such items and utilize or dispose of them as it sees fit without any liability to Concessionaire.
- 25. WAIVER:** No waiver of any default by either party shall be deemed to constitute a waiver of any succeeding or other default.
- 26. HOLDING OVER AFTER TERMINATION:** If, after the expiration of this Concession Agreement, the Concessionaire without the consent of the Director, shall remain in possession of the Concession Space without a written agreement, then such holding over shall be deemed to be at a monthly compensation calculated at a rate which corresponds to 150% of compensation which was paid by the Concessionaire for the prior twelve months, prorated to monthly basis, payable in advance on the first day of each month, all other terms and conditions of this Concession Agreement remaining the same. Such holdover tenancy shall be subject to termination with ten days prior written notice.
- 27. CONDITION OF CONCESSION SPACE:** The Concession Space shall be maintained by the Concessionaire in compliance with the Denver Building Code, as amended, and in compliance with the Americans with Disabilities Act, concerning building accessibility for physically challenged citizens.
- 28. PRIOR AGREEMENTS SUPERSEDED:** This Concession Agreement supersedes any and all prior written or oral agreements and there are no covenants, conditions or agreements between the parties except as set forth herein. 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 amendment executed and approved pursuant to the Charter and Revised Municipal Code of the City. In the event of any conflict, variance or disagreement, the terms and provisions of this Concession Agreement shall supersede, govern and control those of any addenda, exhibits or attachments.
- 29. NO DISCRIMINATION:** In connection with the performance of work under the Agreement, the Concessionaire may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or

gender expression, marital status, protective hairstyle, or disability. The Concessionaire shall insert the foregoing provision in all subcontracts.

30. NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THE AGREEMENT:

30.1. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

30.2. The Concessionaire certifies that:

30.2.1. At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this agreement in the future.

30.2.2. It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

30.2.3. It will not enter into a contract with a subconsultant or subConcessionaire that fails to certify to the Concessionaire that it shall not knowingly employ or contract with a worker without authorization to perform work under the Agreement.

30.2.4. It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

30.2.5. If it obtains actual knowledge that a subconsultant or subConcessionaire performing work under the Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subConcessionaire and the City within three (3) days. The Concessionaire shall also terminate such subconsultant or subConcessionaire if within three (3) days after such notice the subconsultant or subConcessionaire does not stop employing or contracting with the worker without authorization, unless during the three-day period the subconsultant or subConcessionaire provides information to establish that the subconsultant or subConcessionaire has not knowingly employed or contracted with a worker without authorization.

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

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

31. VENUE, GOVERNING LAW: This Concession Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, without regard to the choice of law thereof,

and the Charter and Revised Municipal Code of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted or promulgated pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same maybe amended from time to time, are hereby expressly incorporated into this Concession Agreement as if fully set out herein by this reference. Venue for any legal action relating to this Concession Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

32. **TOBACCO PRODUCTS AND SMOKING POLICY:** There shall be no sale or advertising of tobacco products on the Concession Space or in facilities owned or operated or controlled by the City and County of Denver. “Sale” includes promotional distribution, whether for consideration or not, as well as commercial transactions for consideration. “Advertising” includes the display of commercial and noncommercial promotion of the purchase or use of tobacco products through any medium whatsoever but does not include any advertising and sponsoring which is a part of a performance or show or event displayed or held in City facilities. The Concessionaire and its officers, agents and employees agree that they will cooperate and comply with the provisions of Executive Order No. 99 prohibiting smoking in all indoor City Buildings and facilities.
33. **USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** The Concessionaire, its officers, agents, and employees shall cooperate and comply with the provisions of Executive Order No. 94, including 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 Concessionaire from City facilities or participating in City operations.
34. **CONFLICT OF INTEREST:** The parties agree that no official, officer, or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the Concessionaire further agrees not to hire or contract for services any official, officer or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.28, 1.29, and 1.2.12.
35. **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.
36. **NO THIRD PARTY BENEFICIARIES:** It is expressly understood and agreed that enforcement of the terms and conditions of this Concession Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City, the Concessionaire, and the Master Lessor, and nothing contained in this Concession Agreement shall give or allow any such claim or right of action by any other or third person on such Concession Agreement. It is the express intention of the City and the Concessionaire that any person other than the City, the Master Lessor or the Concessionaire receiving services or benefits under this Concession Agreement shall be deemed to be an incidental beneficiary only.

37. FORCE MAJEURE: Neither party shall be liable to the other, nor shall either party have any right to terminate this Concession Agreement, abate any payments or obligations or assert a claim against the other due to the other party's failure to perform any of its obligations under this Concession Agreement, if the failure is due to reasons beyond the non-performing party's reasonable control, including but not limited to strikes or other labor difficulties, inability to obtain governmental permits or approvals due to delay on the part of a governmental entity, unavailability of materials, war, riot, civil insurrection, accidents, Acts of God, or governmental preemption in connection with a national emergency.

38. NOTICES: All notices required to be given hereunder shall be given by hand delivery or by certified mail, return receipt requested:

To the City: Mayor's Office
City and County Building
1437 Bannock Street, Room 350
Denver, CO 80202

With copies to: Denver City Attorney
Denver City Attorney's Office
1437 Bannock Street, Room 353
Denver, CO 80202

Director of Real Estate
201 West Colfax Avenue, Dept. 1010
Denver, CO 80202

To Concessionaire: HJB CONVENIENCE CORPORATION
8585 W 14TH AVE, Suite B3,
LAKEWOOD, CO 80215

Either party hereto may designate in writing from time to time the address of substitute or supplementary persons to receive such notices. The effective date of service of any such notice shall be the date such notice is deposited in the mail or hand-delivered to the party.

39. EXAMINATION OF RECORDS AND AUDITS: 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 the Concessionaire's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Concessionaire shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours at Concessionaire's Lakewood corporate office 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 the Concessionaire to make disclosures in violation of state or federal privacy laws. The Concessionaire shall at all times comply with D.R.M.C. 20-276.

40. **CITY EXECUTION OF AGREEMENT:** This Concession Agreement is expressly subject to and shall not be or become effective or binding on the City until it has been approved by the Denver City Council and fully executed by all signatories of the City and County of Denver. This Agreement shall be effective as of the date set forth on the City signature page.
41. **TIME OF THE ESSENCE:** Time is of the essence with respect to this Concession Agreement and for each and every provision contained herein.
42. **LEGAL AUTHORITY:** The Concessionaire assures and covenants that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution or action passed or taken, to enter into this Concession Agreement. The person or persons signing and executing this Concession Agreement on behalf of the Concessionaire do hereby warrant and covenant that he/she or they have been fully authorized by the Concessionaire to execute this Concession Agreement on behalf of the Concessionaire and to validly and legally bind the Concessionaire to all the terms, performances, and provisions herein set forth.
43. **SEVERABILITY:** Except for the provisions of this Concession Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of this Concession Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.
44. **LITIGATION COSTS AND ATTORNEYS' FEES:** In the event of any litigation or other action between the City and the Concessionaire to enforce any provision of this Concession Agreement or otherwise with respect to the subject matter hereof, each party shall bear all of its own costs and expenses, including attorneys' fees.
45. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Concessionaire consents to the use of electronic signatures by the City. This Concession Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The parties agree not to deny the legal effect or enforceability of this Concession 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 this Concession 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.

Exhibit List

Exhibit A – Depiction of Concession Space

Exhibit B – Standards of Operation

Exhibit C – Certificate of Insurance

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Contract Control Number:
Contractor Name:

FINAN-202264955-
HJB CONVENIENCE CORPORATION

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

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

FINAN-202264955-00
HJB CONVENIENCE CORPORATION

Please see attached signature page

By: _____
Williena C Huff (Controller)

Please see attached signature page

By: _____
Thomas J Bachrodt (Regional Manager)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Contract Control Number:
Contractor Name:

FINAN-202264955-00
HJB CONVENIENCE CORPORATION

By: Williena C Huff
Williena C Huff (Controller)

By: Thomas J. Bachrodt
Thomas J Bachrodt (Regional Manager)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



DEPARTMENT OF FINANCE
DIVISION OF REAL ESTATE
201 W. COLFAX AVE, DEPT. 904
DENVER, COLORADO 80202

WELLINGTON WEBB OFFICE BUILDING
1ST FLOOR
201 WEST COLFAX AVENUE
DENVER, COLORADO

DATE: 10.28.15
REVISIONS:
DRAWN BY: KP

1 OF 12

A1

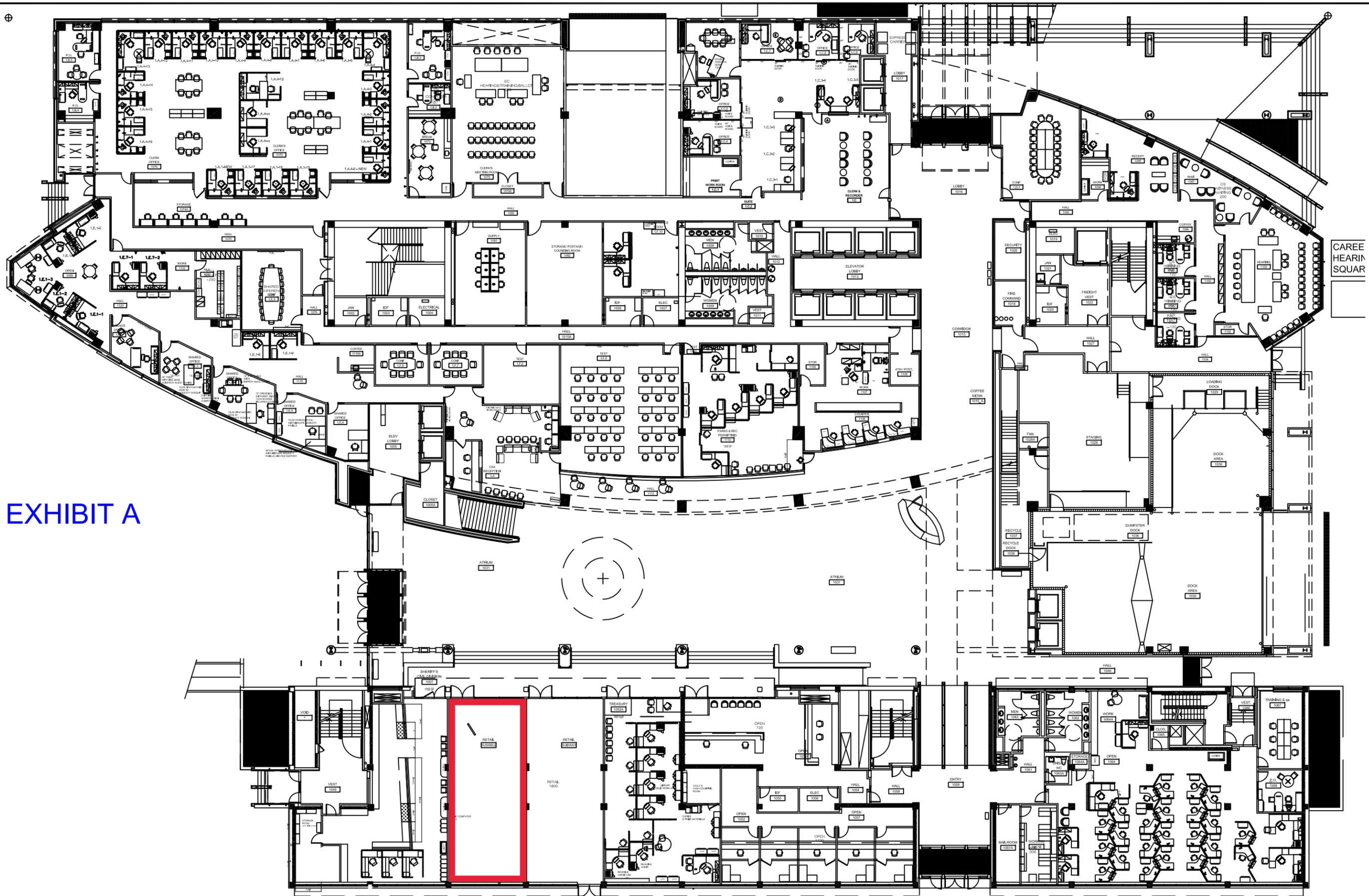


EXHIBIT A

1st FLOOR

SCALE: NTS " = 1'-0"

EXHIBIT B
STANDARDS OF OPERATION

Minimum services and operating requirements for the life of the contract are as follows:

1. Service shall be prompt, courteous and efficient. Concessionaire shall employ at all times sufficient number of personnel necessary to assure prompt service.
2. Hours of operation: Initial hours of operation will be Monday thru Thursday 6:30 a.m. to 4:00 p.m., Friday 6:30 a.m. to 3:00 p.m. Once building reaches pre-COVID occupancy as determined by average number of people entering the building, hours will return to normal hours of 6:30 a.m. to 5:30 p.m. Monday through Friday; City will provide 30 days' notice of normal required. Hours may differ as mutually agreed by Concessionaire and City.
3. A full-time experienced manager must be appointed to represent and act on behalf of the proposing entity in all matters pertaining to its business operation.
4. Premises shall be kept in clean, neat, businesslike, and orderly condition at all times and the Proposer shall provide for timely disposal of trash and debris.
5. Concessionaire shall be responsible for the conduct, demeanor, and appearance (properly uniformed and/or identified) of its officers, agents, employees, suppliers and representatives.
6. Concessionaire shall be responsible for providing quality products with reasonable shelf life. It is the responsibility of the Concessionaire to consistently check the expiration date of all items to be sold and ensure the utmost quality.
7. Concessionaire's operation must meet Environmental Health requirements.
8. Concessionaire is responsible for cleanup of any spillage during business in a timely manner to prevent any damage to City property and avoid risk of injury.
9. Concessionaire shall be responsible for transporting all trash to City designated refuse chutes, recycling bins, dumpsters and compaction points in a manner satisfactory to the Director of Real Estate.
10. Delivery of supplies, cash, and coin to the concession premises shall be made at such times, by such routes/modes and at such locations as the City may reasonably approve.
11. Concessionaire will comply with the City's sustainability efforts, including, but not limited to energy and water conservation, recycling and biodegradable containers.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/29/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: Alliance Insurance Agency, McCann LLC, James McCann, 1895 Youngfield St, Golden, CO 80401, McCann, LLC. CONTACT NAME: McCann, LLC. PHONE: 303-237-1220. FAX: 303-235-8501. E-MAIL ADDRESS: j.mccann@allinsgrp.com. INSURER(S) AFFORDING COVERAGE: The Hartford (30104), Pinnacol Assurance (41190).

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

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

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

The City and County of Denver, its appointed and elected officials, employees and volunteers are included as Additional Insured with a waiver of subrogation in their favor per the policy terms and conditions.

CERTIFICATE HOLDER

CANCELLATION

Certificate holder information: City and County of Denver, Kathryn.Spritzer@denvergov.org, 201 West Colfax 10th Floor, Denver, CO 80202. Cancellation notice: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. Authorized representative signature: James T. McCann.