

AGREEMENT FOR DESIGN BUILD SERVICES

THIS AGREEMENT FOR SERVICES (“Agreement”) is made and entered into as of the date stated on 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 (“City”), and **BOMBARDIER TRANSPORTATION HOLDING USA INC**, a corporation organized under the laws of the state of Delaware and authorized to do business in Colorado (“Consultant”) (collectively “Parties”).

WITNESSETH:

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

WHEREAS, City desires to obtain Design, Procurement, and Construction related services; 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;

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

ARTICLE I LINE OF AUTHORITY

A. Authority. The Chief Executive Officer of the Department of Aviation (the “CEO”), her designee or successor in function, 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 Senior Vice President of Airport Infrastructure Management (the “SVP-AIM”). The SVP-AIM will designate a Project Manager to coordinate Services under this Agreement. Reports, memoranda, correspondence, and other submittals required of Consultant hereunder shall be processed in accordance with the Project Managers directions.

B. Accountability: Unless otherwise directed by the SVP-AIM, the Consultant shall report directly to the Project Manager.

ARTICLE II DUTIES AND RESPONSIBILITIES OF CONSULTANT

A. Scope of Services. Consultant will provide professional design and construction services, including purchasing and installing all equipment necessary to complete the Work, as more fully described in the attached **Exhibit A** (“Scope of Work”) in accordance with schedules and budgets set by City.

B. Professional Responsibility.

1. All of the services performed by the Consultant under this Agreement shall be performed in accordance with the standards of care, skill and diligence provided by competent

professionals who perform services of a nature similar to the services described in this Agreement (“Standard of Care”).

2. The Consultant understands and acknowledges that they are being paid to create and implement the drawings, plans, specifications, reports or any other such deliverables necessary to complete the Work.

3. The Consultant agrees to strictly conform to and be bound by written standards, criteria, budgetary considerations, construction work/task orders and memoranda of policy furnished to it by the City and further agrees to design and construct each project in compliance with the Standard of Care, and all applicable laws, statutes, codes, ordinances, rules and regulations, and industry standards.

4. Design Deliverables shall be developed using Building Information Modeling (BIM) as more fully set forth in the Design Standards Manual which are incorporated herein by reference.

C. Goods: Purchase, Inspection, Acceptance and Warranty

1. The Consultant shall purchase and/or manufacture the doors and any other ancillary equipment necessary for the installation of the doors as more fully set forth on Exhibit A. Consultant shall purchase and install the doors in accordance with the standard of care exercised by highly competent vendors who perform like or similar services. City may inspect all goods/services prior to acceptance. Payment does not constitute acceptance. Consultant shall bear the cost of any inspection/testing that reveal goods/services that are defective or do not meet specifications. City’s failure to accept or reject goods/services shall not relieve Consultant from its responsibility for such goods/services that are defective or do not meet specifications nor impose liability on City for such goods/services. If any part of the goods/services are not acceptable to City, City may, in addition to any other rights it may have at law or in equity: (1) make a warranty claim; (2) repair and/or replace the goods or substitute other services at Consultant expense; or (3) reject and return the goods at Consultant cost and/or reject the services at Consultants expense for full credit. Any rejected goods/services are not to be replaced without written authorization from City, and any such replacement shall be on the same terms and conditions contained in this Agreement.

2. Consultant shall bear the risk of loss, injury or destruction of goods prior to delivery to City. Loss, injury or destruction shall not release Consultant from any obligation hereunder.

3. Consultant warrants and guarantees to City that all goods furnished under this Agreement are free from defects in workmanship and materials, are merchantable, and fit for the purposes for which they are to be used. For any goods furnished under this Agreement which become defective within twelve (12) months (unless otherwise specified) after date of receipt and final acceptance by City, Consultant shall either, at City’s election and to City’s satisfaction, remedy any and all defects or replace the defective goods at no expense to City within seven (7) days of receipt of the defective goods or accept the defective goods for full credit and payment of any return shipping charges. For one (1) year following installation and final acceptance by the City, Consultant shall furnish all spare parts necessary (at no additional cost) for the repair and maintenance of the purchased conveyance unit. Consultant shall provide a spare parts list that must be approved by the City. The cost of any spare parts required shall be included in the base bid price. Consultant shall also be required to make periodic on-site evaluations/adjustment or

repairs to the units during the 12 months after final acceptance by the City. Evaluation dates will be mutually agreed upon by the Parties.

D. Remedies.

1. The Consultant shall faithfully perform the Work required under this Agreement in accordance with standards of care, skill, training, diligence and judgment provided by competent professionals who perform work of a similar nature to the Work described in this Agreement. Consultant shall provide to the City in a timely manner all designs, documents, submittals and services necessary to achieve completion of the Work in accordance with the contract documents. All designs, documents, submittals and services provided by Consultant shall be:

- a. Fully coordinated and integrated with related work being performed by the Consultant's sub-consultants, the City and the City's consultants, and all of their respective suppliers and sub-consultants of any tier; and
- b. Checked for compliance with applicable laws, ordinances, codes, rules, regulations and current industry standards applicable to the Work. Codes and laws are often subject to differing interpretations. Consultant will use due diligence to ascertain interpretations which will be acceptable to the City and relevant regulatory authorities.

2. The Consultant shall be liable to the City for acts and omissions of Consultant's employees, Consultants, subconsultants, agents and any other party with whom the Consultant contracts to perform any portion of the Work. , including any design elements of any authorized Task.

3. In the event Consultant fails to comply with any provisions of this Agreement, Consultant shall be liable to the City for all costs of correcting the Work, without additional compensation, including but not limited to:

- a. All costs of correcting and replacing any affected design documents, including reproducible drawings;
- b. All removal and replacement costs of any improvements or other work installed or performed pursuant to and in accordance with design documents containing negligent errors or omissions; and
- c. Additional costs incurred by the City arising out of any defective Work; and
- d. These remedies are in addition to, and do not limit the provisions and requirements found in Article VI below.

4. The Consultant acknowledges that time is of the essence in the performance of its services under this agreement and that the City of Denver may suffer damages if the Project is delayed as a result of the Consultant's failure to provide its services in a timely

and diligent manner. Consultant shall perform the Work described herein in a timely manner and as directed by the SVP-AIM or his or her authorized representatives.

E. Key Personnel Assignments.

1. All key professional personnel identified in the Scope of Work, **Exhibit A**, will be assigned by Consultant or subconsultants to perform work under this Agreement. It is the intent of the Parties that all key professional personnel be engaged to perform their specialty for all such services required by this Agreement and that Consultant's and the subconsultant's key professional personnel be retained for the life of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed.

2. If, during the term of this Agreement, the Project Manager determines that the performance of approved key personnel is not acceptable, 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. If the Project Manager notifies Consultant that certain of its key personnel will not be retained on this project, Consultant will use its best efforts to obtain adequate substitute personnel within ten days from the date of the notice. Such substitute personnel shall be approved in writing by the Project Manager. Failure to obtain the requisite approval shall be grounds for termination for cause in accordance with the terms of this Agreement.

F. Subcontractors.

1. Although Consultant may retain, hire, and contract with outside subcontractors for work under this Agreement, no final agreement or contract with any such subcontractor shall be entered into without the prior written consent of the Project Manager. Requests for such approval must be made in writing and 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 City. 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 City or to file or claim any lien or encumbrance against any City property arising out of the performance or non-performance of the contract.

2. Because Consultant's represented qualifications are consideration to City in entering into this Agreement, the SVP-AIM shall have the right to reject any proposed outside subcontractor for this work deemed by the SVP-AIM, in the SVP-AIM's sole discretion, to be unqualified or unsuitable for any reason to perform the proposed services, and the Project Manager shall have the right to limit the number of outside subcontractors or to limit the percentage of work to be performed by them, all in the Project Manager's sole and absolute discretion.

3. Consultant is subject to D.R.M.C. § 20-112 wherein Consultant is to 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 City. Any late payments are subject to a late payment penalty as provided for in the prompt pay ordinance (§§ 20-107 through 20-118).

G. Ownership and Deliverables. Upon payment to Contractor, all records, data, deliverables, and any other work product prepared by the Contractor or any custom development work performed by the Contractor on or before the day of payment shall become the sole property

of the City. Contractor also agrees to allow the City to review any of the procedures the Contractor 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 years after termination of this agreement. Upon written request from the City, the Contractor shall deliver any information requested pursuant to this Article II, Section G within 10 business days in the event a schedule or otherwise agreed upon timeframe does not exist. Except as expressly stated, nothing herein shall be construed to directly or indirectly grant to a receiving party any title to or ownership of a providing party's intellectual property rights in services or materials furnished by such providing party hereunder.

ARTICLE III INSTALLATION AND CONSTRUCTION

A. Scope of Work. The Consultant agrees to and shall furnish all labor and tools, supplies, equipment, superintendence, materials and everything necessary for and required to do, perform and complete all of the work described, drawn, set forth, shown and included in this Agreement.

B. Construction General Provisions. The Consultant agrees that all construction completed pursuant to the terms of this Agreement shall be completed in accordance with the terms and conditions of this agreement including but not limited Exhibit D, (the "Construction General Provisions"). Any reference in the Construction General Provisions to Manager shall mean the Chief Executive Officer of the Department of Aviation, and any reference to Deputy Manager shall mean the Senior Vice President of Airport Infrastructure Management.

C. Liquidated Damages. It is understood and agreed by and between the City and the Contractor that, if the Contractor fails to achieve Substantial Completion of the Work within the Contract Time or fails to substantially complete the Work described in a Milestone Area within the time set forth in the Contract Documents or causes Disruptions as set forth in the Contract Documents, the City will suffer substantial damages, which damages would be difficult to accurately determine. The parties hereto have considered the possible elements of damages and have agreed that the amount of Non-Performance Deductions for the Contractor's failure to substantially complete the work within the Contract Time or to substantially complete the work described in Milestone Areas within the time set forth in the Contract Documents or causes Disruptions as set forth in the Contract Documents shall be \$8,000.00 dollars a day. If the Contractor shall fail to pay such Non-Performance Deductions promptly upon demand therefor, the Surety on its Performance Bond and Payment Bond shall pay such damages. Also, the City may withhold all, or any part of, such Non-Performance Deductions from any payment due the Contractor. Additional provisions relating to Non-Performance Deductions are set forth in the Construction Contract General Conditions.

D. Consultant shall comply with City's Prevailing Wage Ordinance, D.R.M.C. § 20-76 et seq., including the applicable Prevailing Wage Rate Schedule as set forth in **Exhibit H** of these

Contract Documents. The Consultant is prohibited from hiring any subcontractor that is currently debarred by City in accordance with D.R.M.C § 20-77.

E. The Consultant agrees to comply with the ordinances relating to Equal Employment Opportunities set forth in D.R.M.C §§ 28-41 – 28-48, and the rules which are attached hereto as Exhibit F (“Equal Employment Opportunity Rules”).

F. The Payment and Performance bonds attached hereto as **Exhibit G**, must be maintained throughout the term of the Agreement and provide for the faithful performance of the Agreement and the payment of bills for labor and materials. The Payment and Performance bonds shall be in the amount of one hundred percent (100%) of the Maximum Contract Liability.

G. There are no Special Conditions contained in these Contract Documents. Any references in the General Conditions to the Special Conditions is hereby modified to be read as the Contract Documents, as established in Article X.

ARTICLE IV TERM AND TERMINATION

A. Term. The Term of this Agreement shall commence upon execution of this Agreement (“Effective Date”), and shall on September 3, 2021, unless sooner terminated as provided in this Agreement. The City, in the CEO’s sole discretion, may elect to extend the term of this agreement for two additional one-year terms. The election to extend, shall also extend all terms and conditions of the agreement and be memorialized in a writing issued to the Consultant by the SVP. Should for any reason the Term expire prior to the completion by Consultant of any outstanding work, which has previously been authorized, then in the CEO’s sole discretion this Agreement shall remain in full force and effect to permit completion of any work that was commenced prior to the date that otherwise would have been the termination date.

B. Termination.

1. City has the right to terminate this Agreement without cause on thirty (30) days prior written notice to Consultant, and with cause on ten (10) days prior written notice to Consultant. In the event of termination by City for cause, Consultant shall be allowed five (5) days to commence remedying its defective performance, and in the event Consultant diligently cures its defective performance to City’s satisfaction, within a reasonable time as determined solely by City, then this Agreement shall not terminate. However, nothing herein shall be construed as giving Consultant the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the CEO.

2. If Consultant is discharged before all the services contemplated hereunder have been completed, or if Consultant's services are for any reason terminated, stopped or discontinued because of the inability of Consultant to provide services in accordance with the terms of this Agreement, Consultant shall be paid only for those services deemed by the CEO satisfactorily performed prior to the time of termination.

3. Upon termination of this Agreement by City, Consultant shall have no claim of any kind whatsoever against City by reason of such termination or by reason of any act incidental thereto, except as follows: if the termination is for the convenience of City, Consultant shall be entitled to reimbursement for the reasonable cost of the work to the date of termination, and reasonable costs of orderly termination, provided request for such reimbursement is made no later than six (6) months from the effective date of termination. Consultant shall not be entitled

to loss of anticipated profits or any other consequential damages as a result of any such termination for convenience, and in no event shall the total sums paid exceed the Maximum Contract Liability.

ARTICLE V COMPENSATION AND PAYMENT

A. Maximum Contract Liability. Notwithstanding any other provision of this Agreement, in no event shall City be liable 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 Eight Million Six Hundred Forty-One Thousand Eighty-Nine dollars (\$8,641,089.00) ("Maximum Contract Liability"). Consultant will be performing the services on a lump sum or firm fixed price basis up to the Maximum Contract Liability. Consultant's fee is based on the time required by its professionals to complete the services. In no event, however, shall the total amount of compensation paid to the Consultant by the City exceed the Maximum Contract Liability, as modified by any duly authorized Change Order, specified herein.

1. The obligations of City under this Agreement shall extend only to monies encumbered for the purposes of this Agreement. Consultant acknowledges and understands 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 City.

2. Payment under this Agreement shall be paid from funds of the Airport System of the City and County of Denver and from no other fund or source. City has no obligation to make payments from any other source. City is not under any obligation to make any future encumbrances or appropriations for this Agreement nor is City under any obligation to amend this Agreement to increase the Maximum Contract Liability above.

B. Retainage. In accordance Exhibit D, Construction General Provisions, section 908 the City shall deduct and retain a total of five percent (5%) from the payment applications for the total construction value which is estimated to be Five Million One Hundred Eighty-Four Thousand Six Hundred Fifty Three dollars and forty cents (\$5,184,653.40). This amount may change based on changes to the contract including but not limited to Change Orders or Amendments.

C. Payment Schedule. Subject to the Maximum Contract Liability set forth in section 3.A. of this Agreement, Consultant's fees and expenses shall be paid in accordance with this Agreement. Unless otherwise agreed to in writing, Consultant will invoice the City on a regular basis in arrears, and the City will pay each invoice in accordance with Denver's Prompt Pay Ordinance, Denver Revised Municipal Code ("D.R.M.C.") § 20-107, *et seq.*, subject to the Maximum Contract Liability set forth above. Consultant understands and agrees interest and late fees shall be payable by City only to the extent authorized and provided for in City's Prompt Payment Ordinance. Travel and any other expenses are not reimbursable unless Consultant receives prior written approval of the Project Manager, and be related to and in furtherance of the purposes of the Consultant's engagement.

D. Invoices. Payments shall be based upon monthly progress invoices and receipts submitted by Consultant, audited and approved by City, in accordance with **Exhibit B**, and this Section 3.C., as follows:

1. An executive summary and status reports that describe the progress of the services and summarize the work performed during the period covered by the invoice.
2. A statement of hours spent where billing is based upon hourly rates. Time sheets shall be maintained by Consultant and shall be available for examination by City, at City's request.
3. The amounts shown on the invoices shall comply with and clearly reference the relevant services, the hourly rate and multiplier where applicable, and allowable reimbursable expenses.
4. Consultant shall submit itemized business expense logs or copies of receipts for all allowable reimbursable expenses, where billing is based upon such items.
5. The signature of an officer of Consultant, along with such officer's certification they have examined the invoice and found it to be correct, shall be included on all invoices.
6. City reserves the right to reject and not pay any invoice or part thereof where the CEO determines the amount invoiced exceeds the amount owed based upon the work performed. City, however, shall pay any undisputed items contained in an invoice. Disputes concerning payments under this provision shall be resolved by administrative hearing pursuant to the procedures of D.R.M.C. § 5-17.

E. Carry Over and Carry Back. If Consultant's total fees for any of the services described above are less than the amount budgeted for, the amount by which the budget exceeds the fee may be used, with the written approval of the CEO or their designee, to pay fees for additional and related services rendered by Consultant in any other services if in the CEO or her designee's judgment, such fees are reasonable and appropriate.

ARTICLE VI INSURANCE, INDEMNIFICATION, AND DISPUTE RESOLUTION

A. Insurance.

1. Consultant shall obtain and keep in force during the entire term of this Agreement, all of the insurance policies described in City's form of insurance certificate which is attached to this Agreement as **Exhibit C** and incorporated herein. Such insurance coverage includes workers' compensation and employer liability, commercial general liability, business automobile liability, and professional liability. Upon execution of this Agreement, Consultant shall submit to City a fully completed and executed original of the attached insurance certificate form, which specifies the issuing company or companies, policy numbers and policy periods for each required coverage. In addition to the completed and executed certificate, Consultant shall submit a copy of a letter from each company issuing a policy identified on the certificate, confirming the authority of the broker or agent to bind the issuing company, and a valid receipt of payment of premium.
2. City's acceptance of any submitted insurance certificate is subject to the approval of City's Risk Management Administrator. All coverage requirements specified in the certificate shall be enforced unless waived or otherwise modified in writing by City's Risk Management Administrator.

3. Consultant shall comply with all conditions and requirements set forth in the insurance certificate for each required coverage during all periods in which coverage is in effect.

4. Unless specifically excepted in writing by City's Risk Management Administrator, Consultant shall include all subcontracts performing services hereunder as insureds under each required policy or shall furnish a separate certificate (on the form certificate provided), with authorization letter(s) for each subcontractor, or each subcontractor shall provide its own insurance coverage as required by and in accordance with the requirements of this section of the Agreement. All coverages for subcontractors shall be subject to all of the requirements set forth in the form certificate and Consultant shall insure that each subcontractor complies with all of the coverage requirements.

5. City in no way warrants and/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, or employees. Consultant shall assess its own risks and as it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Consultant is not relieved of any liability or other obligations assumed or pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. In no event shall City be liable for any: (i) business interruption or other consequential damages sustained by Consultant; (ii) damage, theft, or destruction of Consultant's inventory, Improvements, or property of any kind; or (iii) damage, theft, or destruction of an automobile, whether or not insured.

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

B. Defense and Indemnification. The Contractor hereby agrees to defend, release, indemnify and save harmless the City, its officers, agents and employees from and against (1) 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 (2) any and all claims, demands, suits, actions, liabilities, costs, expenses, or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, actions or omissions of the Contractor or those performing under it in connection with its operations or performance of work under this Contract or the occupancy of city-owned property or other property upon which work is performed under this Contract, and including acts and omissions of the Contractor's employees, representatives, suppliers, invitees, contractors and agents; provided, however, that the Contractor's obligation to indemnify or hold harmless the City, its officers, agents and employees under this paragraph shall not apply to liability or damages resulting (1) from the negligence of the City's officers, agents and employees, and (2) from the Contractor's performance of work requiring the application of the Contractor's professional skills, training and judgment (such as the preparation of professional reports or opinions) if such work was not performed in a negligent manner, The Contractor's obligations set out in this paragraph shall survive the termination of this Contract. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Contractor or its subcontractors either passive or active, in accord with the provisions above.

C. DISPUTE RESOLUTION. Disputes arising under or related to this Agreement or the work which is the subject of this Agreement shall be resolved by administrative hearing which shall be conducted in accordance with the procedures set forth in D.R.M.C. §5-17. The parties agree that the determination resulting from said administrative hearing shall be final, subject only to Consultant's right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

D. Liability Of Contractor.

1. Except for claims for bodily injury or death and notwithstanding any other provision of this Agreement, the liability of the Contractor to the City for any damages, including loss or damage to property of the City or third parties whether in contract, in tort or otherwise, shall not exceed:

a. The amount of insurance coverage required to be carried by the Contractor under this Agreement, plus the total amount of any deductible payable by Contractor under the applicable insurance policy or policies, if such liability is covered by insurance; or

b. A total of Eight Million Six Hundred Forty One Thousand Eighty Nine dollars (\$8,641,089.00) per Contract Year if the liability is not covered by insurance. An uninsured liability subject to this paragraph D(1)(B) will be counted against the aggregate liability of the Contract Year in which the event or the events giving rise to the liability occurred.

2. The limitation slated in this Section D shall not apply to liability arising from misconduct by the Contractor.

3. The limitation slated in this Section D shall not apply unless the Contractor has maintained in force, and complied with all of its obligations in connection with, all insurance it is required to carry under this Contract.

4. Except with regard to the aggregate dollar limitation, the provisions of this Section E shall not limit or otherwise affect the City's rights or the Contractor's obligations under this Contract.

ARTICLE VII GENERAL TERMS AND CONDITIONS

A. Status of Consultant. It is agreed and understood by and between the parties hereto 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 City and County of Denver, and it is not intended, nor shall it be construed, Consultant or its personnel are employees or officers of City under D.R.M.C. Chapter 18 for any purpose whatsoever.

B. Assignment. The Contractor may not assign or otherwise transfer any of its rights or obligations under this Contract, except to another entity if such entity is whole owned, directly or indirectly, by the Contractor's ultimate parent company, without the prior written approval of the Project Manager. If the Contractor attempts to assign or transfer any of its rights or obligations hereunder without obtaining the prior written consent of the Project Manager, the Project Manager

may elect to terminate this Contract. The Project Manager has the sole and absolute discretion to grant or deny any transfer or assignment request.

C. Compliance with all Laws and Regulations. All of the work performed under this Agreement by Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado and with the charter, ordinances and rules and regulations of City and County of Denver.

D. Compliance with Patent, Trademark and Copyright Laws.

1. 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. Consultant will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission and 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 the construction drawings or specifications.

2. Consultant further agrees to release, indemnify and save harmless City, its officers, agents and employees, pursuant to Article VI, Section B, "Defense and Indemnification," from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way 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. Notwithstanding the above, notices concerning termination of this Agreement, notices of alleged or actual violations of the terms of this Agreement, and other notices of similar importance 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 City to:

Bombardier Project Manager
Bombardier Transportations (Holding) USA Inc
1501 Lebanon Church Road
Pittsburg, PA 15236-1491

Said notices shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or

delivered, but such substitutions shall not be effective until actual receipt of written notification thereof.

F. Rights and Remedies Not Waived. In no event shall any payment by City hereunder constitute or be construed to be a waiver by City of any breach of covenant or default which may then exist on the part of Consultant, 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 City with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

G. No Third Party Beneficiaries. 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 City and Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on this Agreement. It is the express intention of City and Consultant that any person other than City or Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

H. Governing Law; Bond Ordinances; Venue.

1. This Agreement is made under and shall be governed by the laws of the State of Colorado. Each and every term, provision or condition herein is subject to the provisions of Colorado law, the Charter of City and County of Denver, and the ordinances and regulations enacted pursuant thereto.

2. This Agreement is in all respects subject and subordinate to any and all City bond ordinances applicable to the Denver Municipal Airport System and to any other bond ordinances which amend, supplement, or replace such bond ordinances.

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

ARTICLE VIII STANDARD CITY PROVISIONS

A. Diversity and Inclusiveness.

1. The City encourages the use of qualified small business concerns doing business within the metropolitan area that are owned and controlled by, economically or socially disadvantaged individuals.

2. The Consultant is encouraged, with respect to the goods or services to be provided under this Contract, to use a process that includes small business concerns, when considering and selecting any subcontractors or suppliers.

B. Small Business Enterprises. Consultant is subject to City's ordinance, DRMC Chapter 28, Article III (MBE/WBE Ordinance) which prohibits discrimination in the awarding of contracts and subcontracts and directs the DSBO Director to establish goals for MBE and WBE participation in the preconstruction and construction of City-owned facilities. There is no design goal assigned and the construction goal for this Agreement is 5%. Project goals must be met with certified MBE and WBE participants or by demonstrating good faith efforts under the MBE/WBE

Ordinance. The Consultant must comply with the terms and conditions of the MBE/WBE Ordinance in soliciting and contracting with its sub-contractors and sub-contractors in administering the performance of the work hereunder. It shall be an ongoing, affirmative obligation of the Consultant to maintain, at a minimum, compliance with the MBE/WBE goal set forth above for the duration of this Agreement, unless City initiates a material alteration to the Scope of Work.

C. City's Non-Discrimination Policy. In connection with the performance of Services under this Agreement, Consultant agrees not to refuse to hire, discharge, promote, demote, or to discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, color, religion, national origin, gender, age, military status, sexual orientation, gender variance, marital status, and/or physical and mental disability. Consultant further agrees to insert the foregoing provision in all subcontracts hereunder

D. Reserved.

E. 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 Project Manager. Any oral presentation or written materials related to DEN shall include only presentation materials, work product, and technical data which have been accepted by City, and designs and renderings, if any, which have been accepted by City. The CEO shall be notified in advance of the date and time of any such presentations. Nothing herein, however, shall preclude Consultant's use of this contract and its component parts in GSA SF330 form, or the transmittal of any information to officials of City, including without limitation, the Mayor, the CEO, any member or members of City Council, and the Auditor.

F. Colorado Open Records Act. Consultant acknowledges that City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes § 24-72-201 et seq., and Consultant agrees that it will fully cooperate with City in the event of a request or legal process arising under such act for the disclosure of any materials or information which Consultant asserts is confidential and exempt from disclosure. Any other provision of this Agreement notwithstanding, including exhibits, attachments and other documents incorporated into this Agreement by reference, all materials, records and information provided by Consultant to City shall be considered confidential by City only to the extent provided in the Open Records Act, and Consultant agrees that any disclosure of information by City consistent with the provisions of the Open Records Act shall result in no liability of City.

In the event of a request to City for disclosure of such information, time, and circumstances permitting, 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, 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 prior to City's application, City will 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 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 City

of all reasonable attorney fees, costs, and damages City may incur directly or may be ordered to pay by such court.

G. Examination of Records.

1. In connection with any services performed hereunder on items of work toward which federal funds may be received the City, 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.

2. Consultant agrees until the expiration of three (3) years after the final payment under this Agreement, any duly authorized representative of City, including the CEO, City’s Auditor or their representatives, shall have the right to examine any pertinent books, documents, papers and records of Consultant involving transactions related to this Agreement, 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.

H. Use, Possession or Sale of Alcohol or Drugs. Consultant 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 City’s barring Consultant from City facilities or participating in City operations.

I. 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.

J. Conflict Of Interest. Consultant agrees that it and its subsidiaries, affiliates, subcontractors, principals, or employees will not engage in any transaction, activity or conduct which would result in a conflict of interest. Consultant 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 Consultant by placing Consultant’s own interests, or the interest of any party with whom Consultant has a contractual arrangement, in conflict with those of City. 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.

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 City.

K. Prohibition Against Employment Of Illegal Aliens To Perform Work Under this Agreement.

1. The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes and Den. Rev. Municipal Code 20-90 and the Consultant is liable for any violations as provided in said statute and ordinance.

2. The Consultant certifies that:
 - (a) 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.
 - (b) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.
3. The Consultant also agrees and represents that:
 - (a) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
 - (b) It shall not enter into a contract with a subcontractor or subconsultant that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
 - (c) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
 - (d) 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 and it has complied with all federal requirements regarding the use of the E-Verify program, including, by way of example, requirements related to employee notification and preservation of employee rights.
 - (e) If it obtains actual knowledge that a subcontractor or subconsultant performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and City within three days. The Consultant will also then terminate such subcontractor or subconsultant if within three days after such notice the subcontractor or subconsultant does not stop employing or contracting with the illegal alien, unless during such three day period the subcontractor or subcontractor provides information to establish that the subcontractor or subconsultant has not knowingly employed or contracted with an illegal alien.
 - (f) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of §8-17.5-102(5), C.R.S. or City Auditor under authority of D.R.M.C. §20-90.3.

L. Funding Source. Payment under this Agreement shall be paid from funds of the Airport System of the City and County of Denver and from no other fund or source.

M. Change In Law. If during the term of this Contract any unforeseeable changes in such laws, ordinances, rules and regulations, or orders occur which result in actual significant increased costs to the Contractor, the Contractor may submit to the City a written request for an equitable adjustment to reimburse it for such costs. The request shall include documentation of

the costs claimed by Contractor, identification of the change in law, ordinance, rule, regulation or order which caused the increased costs and a statement of the reasons why the change was not reasonably foreseeable and the reasons why the change caused the increased costs. The Manager may in his discretion grant or deny an equitable adjustment after review of the information submitted by the Contractor.

ARTICLE IX STANDARD FEDERAL PROVISIONS

A. 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 federal regulations, 49 C.F.R. part 1520. Consultant specifically agrees to comply with all requirements of the applicable federal regulations specifically, 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 the DEN’s Security Office.

B. DEN Security. Consultant, its officers, authorized officials, employees, agents, subcontractors, and those under its control, will comply with safety, operational, or security measures required of Consultant or City by the FAA or 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 City, then, in addition to any other remedies available to City, Consultant covenants to fully reimburse City any fines or penalties levied against City, and any attorney fees or related costs paid by City as a result of any such violation. This amount must be paid by Consultant within fifteen (15) days from the date of the invoice or written notice.

C. Federal Rights. This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between 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 City for DEN purposes and the expenditure of federal funds for the extension, expansion or development of the Denver Municipal Airport System.

D. General Civil Rights Provision. The contractor 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 contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

ARTICLE X CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

This agreement consists of Articles I through XI which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Appendices 1:	Standard Federal Assurances
Exhibit A:	Scope of Work
Exhibit B:	Scheduling, Progress Reporting, Invoicing and Correspondence Control
Exhibit C:	Certificate of Insurance

Exhibit D: Construction General Provisions
Exhibit E: Reserved
Exhibit F: Equal Employment Opportunity Rules
Exhibit G: Payment and Performance Bonds
Exhibit H: Prevailing Wage Rate Schedule

In the event of an irreconcilable conflict between a provision of Articles I through XI 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:

Appendices 1
Articles I through XI hereof
Exhibit A
Exhibit D
Exhibit B
Exhibit C
Exhibit F
Exhibit H
Exhibit G
Exhibit E

ARTICLE XI CITY EXECUTION OF AGREEMENT

A. **City Execution.** This Agreement is expressly subject to, and shall not become effective or binding on City, until it is fully executed by all signatories of City and County of Denver. 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, and it may be signed electronically by either party in the manner specified by City.

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

[SIGNATURE PAGES FOLLOW]

Contract Control Number: PLANE-201840510-00

Contractor Name: BOMBARDIER TRANSPORTATION (HOLDINGS)
USA INC

JAC
JF

By: *Jennifer A. Callery*

Name: JENNIFER A. CALLERY
(please print)

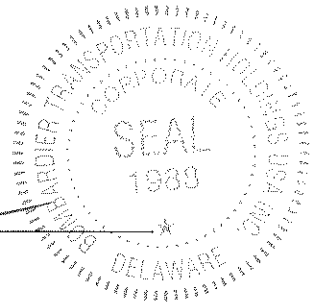
Title: Vice President
(please print)

ATTEST: [if required]

By: *Johnetta Falk*

Name: Johnetta Falk
(please print)

Title: Secretary
(please print)



Contract Control Number:

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

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Appendix No. 1

Standard Federal Assurances and Nondiscrimination

APPENDIX A

COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

NOTE: As used below the term "Contractor" shall mean and include Concessionaire, and the term "sponsor" shall mean the "City."

During the term of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations.** The Contractor will comply with the Title VI List of Pertinent Non-Discrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.

2. **Nondiscrimination.** The Contractor, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, creed, color, national origin, or sex in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Contractor 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 Contractor of the Contractor's obligations under this Agreement and the Acts and Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports.** The Contractor will provide all information and reports required by the Acts, Regulations or 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 (FAA) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the sponsor or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance.** In the event of a Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the sponsor will impose such Contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the Contractor under this Agreement until the Contractor complies, and/or;
- b. Cancelling, terminating, or suspending this Agreement, in whole or in part.

6. **Incorporation of Provisions.** The Contractor will include the provisions of

paragraphs one (1) through six (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations or directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX E

TITLE VI LIST OF PERTINENT NONDISCRIMINATION AUTHORITIES

As used below, the term "Contractor" will mean and include Concessionaire and the term "sponsor" will mean City.

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 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 U.S.C. § 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 U.S. C. § 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 U.S.C. § 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 1 00-209), (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 U.S.C. §§ 12131 -12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 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 discrimination 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 U.S. C. 1681 et seq).

Scope of Work

- Contractor shall provide a complete set of engineered stamped design documents to facilitated the procurement and installation of 80 door sets.
- Design Documents shall include replacement of 80 door sets at all four (4) stations and one (1) door set to be set up and operational for the maintenance facility.
- Contractor shall provide Level 1 and Level 2 Interface document for DEN 's review and approval.
- Contractor shall develop fabrication drawings upon DEN's approval of the design documents.

Detailed Scope of Work

A. Contractor shall provide engineering, design and management services to develop design documents to facilitate the fabrication, procurement and installation of 80 door sets at all four (4) stations (Terminal, Concourses A, B and C) and one (1) door set located in the AGTS Maintenance facility.

- Provide engineered designed drawings stamped by a professional engineer registered in the state of Colorado.
- Provide FAI unit at the Door Manufacturer's facility for DEN's review and comment.
- Provide all testing and certification as required for DEN's acceptance and operation.

B. The design is to fully compatible with the existing infrastructure and shall include as a minimum the following:

- Replacement of the door header that includes belt drive operators, microprocessor controllers, 24VDC auto lock assemblies and 3 position dual purpose key switch assemblies.
- Replacement of lower threshold of the station platform door guides
- Replacement of the existing stainless-steel doors
- Integrated Passenger Counting System.

C. Schedule

- Contractor shall provide to DEN a complete set of Level 1 documents for review and comments no later than 115 Work Days (WDs) from NTP.
- Contractor shall provide to DEN a complete set of Level 2 Interface Documents for review and comments no later than 161 WDs from NTP.
- Contractor shall provide a complete set of fabrication drawings to DEN for review and comments no later than 227 WDs from NTP.
- Payment for all services performed as stated in this Statement of Work, shall be based on a mutually agreed milestone payment scheduler between DEN PM and Bombardier.

Exhibit B

PROFESSIONAL SERVICES

SCHEDULING, PROGRESS REPORTING,
INVOICING AND CORRESPONDENCE CONTROL

Revised: December 2014

City and County of Denver



DENVER INTERNATIONAL AIRPORT

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I. PURPOSE

The purpose of this Exhibit B is to provide consultants with specific guidelines and instructions for preparing and submitting invoices. These guidelines are not meant to be all inclusive or apply in all instances. Flexibility shall be allowed at the discretion of the project manager. Consultants shall **reference the appropriate section** as determined by the Project Manager or other authorized designee and will be maintained through the entire term of the agreement.

II. TASK ORDER-BASED CONTRACTS (Airport Infrastructure Management)

1. Introduction

1.1 This Exhibit B describes the Consultant's obligations to prepare and submit schedules, budgets, invoices, and progress reports, and to control correspondence. The Consultant shall prepare invoices that are based on its progress toward completing the Consultant's Task Order. The Consultant schedules the work and identifies the resources (costs and man-hours), which will be required to complete each scheduled phase of a Task Order. Those resources are totaled for each phase of the Task Order. The Consultant then measures monthly progress and prepares invoices on the basis of payment alternatives, which the Consultant must submit written approval for each Task Order as described in Section Three (3) of this Exhibit B. **Billing shall be at one task per invoice.**

1.2 The Consultant shall be paid on its progress toward completing a task shown on its work schedule for that Task Order. Submittal of time sheets is required concurrent with the submittal of each invoice. Payments for each Task Order will be calculated in accordance with the payment method set forth in each Task Order pursuant to Section three (3) of this Exhibit B, and shall not exceed the Not-to-Exceed amount allocated to that Task Order unless modified by a revised Task Order/Change Order.

1.3 The City shall have the right to audit all payments made to the Consultant under this Agreement. Any payments to the Consultant which exceed the amount to which the Consultant is entitled under the terms of this Agreement will be subject to set-off (what does the term set-off mean?) and not approved for payment.

1.4 The Consultant will keep and retain records relating to this Agreement and will make such records available upon request to representatives of the City, at reasonable times during the performance of this Agreement and for at least six (6) years after termination of this Agreement for purposes of audit, inspection, copying, transcribing and abstracting.

1.5 The Consultant will furnish, or cause to be furnished to the Chief Executive Officer (CEO), such information as may be requested relative to the progress, execution, and cost of individual Task Orders. The Consultant will maintain, or cause to be maintained, records showing actual time devoted and costs incurred. The Consultant will maintain, or cause to be maintained, its books, records, documents, and other evidence, and adopt, or cause to be adopted, accounting procedures and practices sufficient to reflect properly all costs of whatever nature, claimed to have been incurred and anticipated to be incurred for or in connection with the Project for six (6) years after termination of this Agreement. This system of accounting will be in accordance with generally accepted accounting principles and practices, consistently applied throughout and in accordance with instructions from the City.

1.6 In the event of the failure by the Consultant to provide records when requested, then and in that event, the Consultant will pay to the City reasonable damages the City may sustain by reason thereof.

1.7 No provision in the Agreement granting the City a right of access to records is intended to impair, limit or affect any right of access to such records, which the City would have had, in the absence of such provision.

2. Work Schedule

2.1 The Consultant, working jointly with DIA, will develop scheduling and management procedures which allow for seamless communications of its requirements for managing Task Orders and the City's information requirements to monitor the Consultant's activities. Task Order schedules shall include all of the activities that the Consultant must perform to complete the Consultant's Task Order Scope of Work. It shall also identify activities or actions that must be performed by the City and third parties, which would affect the Consultant's Work.

2.2 The City will provide its comments to the Consultant within five (5) working days after the Task Order Schedule is submitted. The Consultant shall incorporate the City's comments into the Task Order Schedules.

2.3 Immediately following the Notice to Proceed and throughout the Task Order, the Consultant shall submit to the Project Manager, a rolling three-week, look-ahead schedule, for the following three week's work.

3. Progress Payment Measurement Alternatives

3.1 DIA will propose and the consultant may offer alternatives, one of the following measurement alternatives for each Task Order or the overall Program for calculating progress payments and reporting schedule status to the City. The City shall make the final determination and the Consultant shall use the alternative as approved for the scope of work described in the Task Order.

3.1.1 Submittal Status: Progress payments will be made after the submittals described in a Task Order have been delivered and approved by the City. A portion of the Fee will be allocated to each submittal as defined in the Task Order scope.

3.1.2 In Progress Status: Progress payments will be based on the percentage of designs submittals, drawings, specifications, reports or other documents, which have been prepared, submitted, and reviewed or completed. This alternative is acceptable for Task Orders, which have a long duration, and several months may elapse between submittal dates. The Consultant shall prepare a detailed worksheet for each Task Order showing a schedule of proposed billing points and the number of design submittals, drawings, specifications, reports and reviews that establish each point.

3.1.3 Completion: Payments will be made for completed Task Orders. This method may be used for Task Orders whose total duration is less than one month, if applicable.

3.1.4 Level of Effort: Progress payments will be based on the actual number of man-hours utilized to perform a Task Order. Progress payments (less the appropriate retainage) will be based on the actual number of direct labor-hours expended for the period invoiced to perform a Task Order. Progress payments will not be made for amounts above the Not-to-Exceed (NTE) amount (if applicable).

3.2 Note: Approvals by the City of submittals do not waive any obligation by the Consultant to provide complete work that has been authorized. Authorized payments on previous invoicing may be set-off on subsequent invoicing in the event work submitted is found to be in non-compliance with the scope of work requirements.

4. Invoices and Progress Payments

4.0 Task orders are issued for projects with a pre-defined maximum value known as the Not-to-Exceed amount. The Not-to-Exceed is not a guaranteed amount to the Consultant. It is the maximum amount allowed to be paid out for the Task Order, plus or minus any pre-authorized changes. The Project Manager will determine when the Task Order deliverables have been met.

4.1 The City will provide the Consultant with the format required to process the payment through Primavera Unifier. The Consultant shall provide to the City a completed invoice format for review and approval no later than fourteen (14) days after the Issuance of task order. This format will identify the measurement alternatives, which will be used to measure progress for an individual task.

4.2 The Project Manager and the Consultant shall agree on the day of the month the Consultant's invoices shall be submitted. By the day of the month agreed to for submitting invoices, the Consultant shall invoice the City for its achieved progress on each task during the previous 30 day period. The worksheet(s) which the Consultant used to calculate progress for the Task Order must be submitted with the copy of the invoice. (The Project Manager must provide written approval of the format for these worksheets before they may be used. One (1) electronic copy of both the invoice and the Consultant's worksheet(s) shall be submitted each month to the DIA Business Management Services Contract Administrator via email ContractAdminInvoices@flydenver.com. If Textura® is to be utilized please see Section 4.11.

4.3 The Consultant shall submit with each invoice signed Partial Releases from each subconsultant which states the amount of payment(s) received and/or amount(s) invoiced but unpaid for services performed through the prior billing period. If Textura® is to be utilized please see Section 4.11.

4.4 The employee labor data (company name, employee name, hourly rate, and number of hours) on each invoice shall be submitted in Unifier.

4.5 Payment for invoices received after the day of the month agreed to for submitting invoices may be delayed. Accordingly, timely submission of invoices is required.

4.6 If applicable, five percent (5%) of the total amount of each invoice may be withheld per contract or the Bond Ordinance as it may apply, from each progress payment regardless of the measurement alternative selected in section 3 above. The amount withheld (retainage) shall be paid to the Consultant after the Consultant's completion and approval of all submittals as detailed in the CPM schedule and Submittal Log in Primavera Unifier, required by the Task Order, submittals of all lien releases, and submittal of a final close out invoice. Within six (6) months of the Substantial Completion of a Task Order, the Consultant will forfeit all retainage if Consultant fails to complete all submittals required by the Task Order.

4.7 The Project Manager will review all invoices and, in the event, the Project Manager disagrees with the invoiced progress, he will notify the Consultant. The Consultant and Project Manager will meet within fifteen (15) days of the receipt of the invoice to discuss the reasons for the disagreement and whether a portion of the payment for the task should be deferred. The Manager or his/her designee shall have the authority in his/her sole and absolute discretion to withhold portions of any progress payment request if he/she determines that the progress claimed for any task in the invoice has not been achieved.

4.8 In accordance with requirements set forth in this Agreement, the Consultant must have provided the City with the following documentation before any payments will be made to the Consultant:

- A current Certificate of Insurance providing the levels of protection required per Prime Agreement
- Signed Subconsultant Agreement(s) on: Initial Subconsultants and as new Subconsultants are acquired.
- Final Organizational Chart (Updated with new Subconsultants as they are acquired)
- Authorization Forms ([Attachment B](#)) for any salaried Professional Personnel Assignment who are not already approved in this Agreement.
- Name and Title for Authorized Signatures. The table shall also include the type(s) of documents which can be signed, any dollar threshold limitations, and a facsimile of the employee's signature.

4.9 Monthly Invoice Checklist - Professional Services Agreements ([Attachment A](#)): The Monthly Invoice Checklist must be submitted to the project manager with each invoice. Failure to submit the Monthly Invoice Checklist and all requirements of Exhibit B will be cause for rejection of the invoice until such time that all requirements are fulfilled.

4.10 Final Close Out Invoice: By submitting a final close out invoice, Consultant agrees that in consideration of the prior and final payments made and all payments made for authorized changes, the Consultant agrees to release and forever discharge the Owner from any and all obligations, liens, claims, security interests, encumbrances and/or liabilities arising by virtue of the contract and authorized changes between the parties, either verbal or in writing. Consultant agrees that this release is in full settlement of any and all claims, causes of action, and liability of any nature whatsoever which Consultant, any of its subconsultants, suppliers, or the employees of each of them may now have or may assert in the future against the City of Denver, its elected and appointed officials, and its officers, employees and agents arising out of or associated with the design of the above-referenced project. It is understood and agreed that this release extends to all claims of every nature and kind whatsoever, known or unknown, suspected or unsuspected.

4.11 Textura®: The consultant recognizes and agrees that it may be required to use the Textura® Construction Payment Management System (CPM System) for this Project. The City will provide the Textura Fee amount to the Contractor during contract negotiations. Contractor will pay this amount to Textura directly. The City will reimburse the Contractor as a pass through expense for the Textura Fee with no mark-up.

5. Monthly Progress Report Development

5.1 Invoice Report: The Consultant shall submit to the Project Manager an electronic submittal of the Monthly Progress Report with its invoice. This Report shall contain the following sections:

- a.) Executive Summary
- b.) Work Schedule (per Primavera Unifier)
- c.) Cost Status
- d.) Cash Flow Requirements
- e.) Subcontract and Minority/Women/Small/Disadvantaged Business Enterprise (M/W/S/DBE) Goals and Status
- f.) Status of Task Order
- g.) Drawing/Document Schedule and Status
- h.) Task/Project Schedule and Manpower Status
- i.) Task/Project Activities Planned for Next Month
- j.) Monthly Task/Project Activity and Accomplishments

- k.) Identification and Analysis, of any Scheduling, Coordination, or Other Problem Areas.
- l.) Change Order Log – Approved and Pending

5.2 The exact format and detail level required for The Monthly Progress Report will be established jointly by the Project Manager and the Consultant within seven (7) days after Issuance of task order based on a proposed format prepared by the Consultant. The Report shall describe Task Order(s) completion status in terms of original plan, actual, a forecast of time to complete the Task Order(s) and any expected Task Order budget or schedule completion variances. The "Status of Task Order" report shall be formatted separately for each Task Order Scope of Work.

5.3 The Consultant shall be available, when requested, to meet with City representatives to discuss the Monthly Progress Report.

6. Schedule Changes and Increase in Project Amount

6.1 Any requests for schedule changes or increases in a Task Order amount shall be submitted to the City in writing and shall include an explanation and justification for the proposed schedule change or increases.

7. Allowable General and Administrative Overhead (Indirect Costs)

7.0 All Allowable General and Administrative Overhead expenses are incorporated in the Labor Rates and Classifications Exhibit; Overhead / Multiplier Factor Calculation – Professional Services Agreements, and paid through the application of the Overhead Multiplier Factor against core staff wage reimbursements.

7.1 Indirect costs are the general administrative overhead costs that benefit more than one project; costs that cannot be directly identified with a single specific task objective of the project. Department of Aviation policy is to allow overhead costs in the following manner as part of the negotiated multiplier as calculated in the Labor Rates and Classifications Exhibit:

7.1.1 Office Provisions: Utilities, communications systems, rent, depreciation allowances, furniture, fixed equipment, etc.

7.1.2 Supplies, Equipment & Vehicles: For office, drafting, engineering copying, postage, freight, surveying vehicles, computer drafting and graphics, computers, software, etc.

7.1.3 Maintenance and Repair: On office equipment, survey & testing equipment, buildings, vehicles, etc.

7.1.4 Insurance: Professional liability, errors and omissions liability, vehicles, facilities, etc.

7.1.5 Taxes: Personal property, state & local taxes, real estate, (state and federal income taxes excluded), etc.

7.1.6 Marketing Fees & Publications: Licenses, dues, subscriptions, trade shows, staff support, etc.

7.1.7 Admin & Clerical Office Staff: All administrative, clerical & management support staff not directly involved in the specific project or task.

7.1.8 Other Indirect Costs: Training, technical seminars, library, financial & legal costs, employment fees & recruiting costs, etc.

7.2 Non-Allowable Overhead: Including but not limited to: Advertising, bad debts, bank fees, bonuses, contingencies, distribution of profits, donations, gifts, & charitable contributions, employee stock ownership plans, entertainment & social functions, state and federal income taxes, fines & penalties, goodwill, interest expense, lobbying costs, overtime premium, unallowable relocation costs pursuant to Federal Acquisition Regulations (FAR 31.205-35), etc.. If an expense is not explicitly included in this Agreement as an allowable expense, it is not an allowable expense.

8. Allowable (Non-Salary) Expenses

8.0 Expenses Reimbursed at Cost: All Allowable (Non-Salary) expenses are reimbursed at cost.

8.1 Receipts Required: All direct expenses submitted for reimbursement must be evidenced by a submitted receipt.

8.2 Expenses Greater Than \$500: All direct expenses greater than \$500 must be pre-approved by the Project Manager or his/her designee (**Attachment C**). Any asset purchased by DIA must be surrendered to DIA at the end of the project or task. The consultant shall be charged replacement value for any asset purchased by DIA that is not accounted for at the end of the project or task.

8.3 Mileage Outside Of The Denver Metro Area: Mileage reimbursement will be provided only for travel outside the Denver Metropolitan area that has been pre-approved by the Manager or his/her designee (**Attachment D**). The reimbursement will be at the current rate established for reimbursement by the United States Internal Revenue Service (www.irs.gov). Denver metropolitan area mileage for employees assigned to the project and employees not assigned to the project will not be reimbursed. Tolls will not be reimbursed.

8.4 Travel and Airfare: All travel must be pre-approved on the DIA Advance Travel Authorization Form (Attachment E) and signed by the Project Manager or his/her designee. Travel shall be done using the most reasonable cost and means under the circumstances. Travel expenses are reasonable, appropriate, and necessary travel and business related expenses(s) that are incurred while carrying out official City business as it relates to the consultant's contractual obligations and scope of work. The determination of reasonableness of cost and of the means of travel shall be at the discretion of the Project Manager or his/her designee, who shall consider economic factors and circumstances, including but not limited to number of days of travel, advance notice, possibility of trip cancellation, distance of travel, travel alternatives, and hours of arrival or departure.

Airfare will be reimbursed for Economy/Coach class travel only, including luggage check-in fees. Convenience expenses such as seat upgrades, in-flight meals and refreshments, entertainment, etc. will not be reimbursed.

8.5 Rental Car: At cost for standard class or smaller and when required for out-of-town personnel or out-of-town travel.

8.6 Lodging Rate / Night: A maximum of the Lodging per diem for the Denver metropolitan area as published by the U.S. General Services Administration website www.gsa.gov plus taxes per night, unless approved in advance in writing by the Project Manager or his/her designee.

8.7 Meals: The City shall reimburse the Traveler for reasonable meals expenses at the meal and incidental expense (M&IE) rates established through federal guidelines and IRS regulations, or at actual cost. The Agency/Department will decide on the reimbursement method. Only one

method of reimbursement may be used per trip. The per diem rate includes breakfast, lunch, and dinner. Reimbursements will be made per individual Traveler conducting official City business as it relates to the consultant's contractual obligations and scope of work.

Alcohol will not be reimbursed. Meal reimbursements are not allowed for consultant employees located in the Denver Metropolitan Area.

8.8 Special: Including printing, equipment, express courier, delivery, rentals, etc., that is not already included in O.H. and is for the specific project or a task related to the Agreement. All expenditures in section 8.8 submitted for reimbursement must be pre-approved by the Project Manager or his/her designee.

8.9 Specialty Consulting: Including geotechnical testing, surveying, legal, real estate, computer, financial, renderings, animations, modeling, etc. must be pre-approved by the Project Manager or his/her designee.

8.10 Relocation Expenses For Key Personnel: All relocations intended to be submitted for reimbursement must be allowed by the contract terms and pre-approved by the Project Manager or his/her designee prior to incurring the expense. Unallowable relocation costs pursuant to Federal Acquisition Regulations (FAR 31.205-35) will not be reimbursed. DIA will reimburse only for actual relocation expenses evidenced by receipts. Reimbursement of relocations will be based on the approved receipts submitted up to a maximum of \$20,000.00 for each relocation. Only relocations to the Denver metropolitan area will be considered for reimbursement. Any individual relocated must work on the related Denver International Airport project for at least six (6) months after the relocation or the reimbursement of the relocation will be refunded back to the City.

8.11 Project Field Office & Equipment: Including utilities, rent, communications systems, furniture, fixed equipment, etc.

8.12 Project Field Supplies, Equipment & Vehicles: For field office, engineering copying, postage, freight, field vehicles, computer drafting and graphics, computers, all software / license fees, etc.

8.13 Non-Allowable Expenses: Including but not limited to: valet parking, alcohol, tolls, laundry and dry cleaning, flight upgrades, flight change fees (unless flight changes resulted from action(s) caused by Denver International Airport), entertainment & social functions (corporate and civic), overtime premium, fines & penalties, items included in section 7.2 above, etc. If an expense is not explicitly included in this Agreement as an allowable expense, it is not an allowable expense.

8.14 Preparation Of Proposals: Costs for proposal preparation and negotiation will not be reimbursable.

9. Summary of Contract Task Order Control

9.1 Prior To Commencement Of Work – Submittals Required

9.1.1 Signed Subconsultant Agreement(s) with an Exhibit listing the subconsultant's core staff rates and calculated Labor Rates and Classifications.

9.1.2 Authorization Forms for salaried Personnel Assigned for the Prime Contractor and all Subconsultants ([Attachment B](#)).

9.1.4 List of the names and titles of Authorized Signers, which document(s) they can sign, and a facsimile of the employee's signature.

9.1.5 Work Schedule and Task List formatting

9.2 Within 3 Days After Issuance of Task Order – Submittals Required

9.2.1 The Consultant shall meet with the Project Manager for a Pre-Work Meeting.

9.2.2 Current Certificate of Insurance reflecting the Mandatory Coverage in Exhibit D.

9.2.3 Final Organizational Chart of the Prime Contractor and all Subconsultants.

9.3 Within 7 Days After Issuance of Task Order

9.3.1 Correspondence Control Methods and Progress Report Format

9.3.2 Invoice and Progress Payment Format

9.3.3 The Consultant shall submit their proposed Monthly Progress Report Format

9.4 Bi-Weekly Submittal

9.4.1 The Consultant shall submit a detailed two-week look-ahead schedule of activities for the Task Order.

9.5 Monthly Submittals

9.5.1 The Consultant shall submit the Monthly Progress Report.

9.5.2 The Consultant shall submit invoicing by the day of the month referenced in section 4.2.

9.6 Within 7 Days After Request For Proposal For Task Order – Submittals Required

9.6.1 Scope Definitions and Detailed Cost Estimate per task and per sub-consultant, List of Submittals or Deliverables, Drawing and Specification.

9.6.2 Work Schedule per task and overall Task Order schedule showing appropriate milestones.

9.6.3 The Consultant shall submit the *Exhibit Task Order Fee Proposal* template detailing the costs of the project.

10. Information Management Format and Electronic-Mail Protocols

10.1 All information between the Consultant and the City, and other entities with participation in the services as stated in the development of the Task Order shall be handled using Primavera Unifier.

10.2 Within 3 days following the Issuance of task order, the Consultant shall meet with the City to review the City's proposed method of correspondence, email, & submittal communication control. Within 7 days following this review, the Consultant shall institute its control procedures for the Program.

10.2.1 General: Procedures for professional services agreements require the serialization of all correspondence between the City, consultants, subconsultants, and all project entities. All Consultants, Subconsultants, that communicate via e-mail must be managed through the

Primavera Unifier system. Web-based programs or other methods of tracking electronic communications may be proposed. However, those systems must be compatible with DIA records management data system. The Consultant shall review its system with the Records Management group to determine its compatibility with DIA procedures, processes and systems.



Attachment A - Monthly Invoice Checklist

Professional Services Agreements

Date: _____ **Invoice Number:** _____

Contract Number: _____

Contract Name: _____

Consultant: _____

(Name)

(Address)

Monthly Progress Payment Invoice and Exhibit B Progress Requirements Checklist:

(Place a check in the box to indicate that the item was supplied in accordance with Exhibit B requirements)

- Three Week Schedules for period covered by this invoice (Section 2.4)
- Originals of Sub-Consultant Partial Releases (Section 4.3)
- Invoice Report (Section 5.1)
 - Executive Summary
 - Work Schedule(s)
 - Cost Status
 - Cash Flow Requirements
 - Manpower and Task Completion Variance Analysis, Achieved vs. Planned, and any Planned or Proposed Schedule or Budget Revisions or other Remedial Actions
 - Subcontract and Minority/Women/Small/Disadvantaged Business Enterprise (M/W/S/DBE) Goals and Status
 - Status of Task Order
 - Drawing / Document Schedule and Status
 - Task/Project Schedule and Manpower Status
 - Task/Project Activities Planned for Next Month
 - Monthly Task/Project Activity and Accomplishments
 - Identification and Analysis, of any Scheduling, Coordination, or Other problem Areas
 - Change Order Log – Approved and Pending

The preceding and noted reports, schedules and logs have been submitted at the appropriate intervals and in accordance with the requirements of Exhibit B. The Consultant acknowledges that failure to submit the required items will result in the rejection of the Monthly Progress Payment Invoice until such time that all requirements are fulfilled.

Signature

Date

Type Name and Title

Attachment B – Professional Employee Authorization Form



Date: _____

Contract Name: _____

Contract Number: _____ **Task Number(s) (if applicable):** _____

Company Name: _____

Employee Name: _____

Employee Title: _____

Hourly Rate Paid to Employee: \$ _____ **Multiplier Factor:** _____

Hourly Rate Charged to DIA: \$ _____
(Per the Exhibit E previously submitted)

Qualifications: _____

Resume Attached: Yes / No

Facsimile Signature: _____

This employee is approved to work on the above referenced Task Order.

Signature Date

Type Name and Title

Attachment D - Mileage Reimbursement Form



Date: _____

Contract Name: _____

Contract Number: _____ **Task Number(s):** _____

Company Name: _____

Employee Name: _____

Travel From: _____

Travel To: _____

Estimated Total Miles: _____

Estimated Total Cost: \$ _____

Reason for Travel: _____

Travel for the above named individual and purpose is approved.

Signature Date

Attachment E - Advance Travel Authorization Form



Contract No.: _____ **Date:** _____

Traveler's Name: _____ **Authorization No.:** _____

Traveler's Employer: _____

Destination: _____

Duration: From _____ **To** _____

Purpose of Trip: _____

Approximate Travel Costs: \$ _____

Reviewed by: _____
Project Manager Date

Approved by: _____
Section Manager Date

Approved by: _____
Deputy Manager Date

cc: BMS Contract Administrator

**CITY AND COUNTY OF DENVER
INSURANCE REQUIREMENTS FOR THE DEPARTMENT OF AVIATION**

Certificate Holder Information:

CITY AND COUNTY OF DENVER
Attn: Risk Management, Suite 8810
Manager of Aviation
Denver International Airport
8500 Peña Boulevard
Denver CO 80249

If you are awarded the contract, your ACORD forms must be submitted electronically to: contractadmininvoices@flydenver.com.
HARD COPIES will not be accepted.
All ACORD forms must have the project number in the Description of Operations section.

CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: AGTS Station Door Upgrades Design

I. PRIMARY COVERAGE

Colorado Workers' Compensation and Employer Liability

Minimum Limits of Liability (In Thousands) \$100, \$500, \$100

1. 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. Any such rejections previously effected, must have been revoked as of the date Contractor executes this Agreement.
2. If the contractor/consultant is a sole proprietor, Workers' Compensation is waived per State of Colorado law.

Commercial General Liability

Minimum Limits of Liability (In Thousands):

Each Occurrence:	\$1,000
General Aggregate Limit:	\$2,000
Products-Completed Operations Aggregate Limit:	\$2,000
Personal & Advertising Injury:	\$1,000

The policy must provide the following:

1. That this Agreement is an Insured Contract under the policy.
2. Defense costs are outside the limits of liability.
3. A severability of interests or separation of insureds provision (no insured vs. insured exclusion).
4. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
5. The full limits of coverage must be dedicated to apply to each project/location.

Business Automobile Liability

Minimum Limits of Liability (In Thousands):

Combined Single Limit \$1,000

The policy must provide the following:

1. Coverage applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.
2. If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy.

II. ADDITIONAL COVERAGE

Excess/Umbrella Liability

Minimum Limits of Liability (In Thousands):

Umbrella Liability Controlled Area	Each Occurrence and aggregate	\$9,000
Umbrella Liability Non-Controlled Area	Each Occurrence and aggregate	\$1,000

The policy must provide the following:

1. Coverage must be written on a "follow form" or broader basis.
2. Any combination of primary and excess coverage may be used to achieve required limits.
3. If operations include unescorted airside access at DIA, then a \$9 million Umbrella Limit is required.

Professional Liability, Design, Engineering and Construction Supervision

Minimum Limits of Liability (In Thousands)

Per Claim	\$1,000
Aggregate	\$1,000

The policy must provide the following:

1. Coverage shall extend to cover the full scope of all cost estimating work performed under the insured's contract with City.
2. Coverage shall apply for three (3) years after project is complete.
3. Coverage is to be on a primary basis, if other professional coverage is carried.

III. ADDITIONAL CONDITIONS

It is understood and agreed, for the benefit of the City, that the following additional conditions shall apply to all coverage specified herein:

1. For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
2. All coverage provided herein shall be primary and any insurance maintained by the City shall be considered excess.
3. For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.
4. The City shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein, and the insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
5. 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.
6. For claims-made coverage, 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.
7. No changes, modifications or interlineations on this document shall be allowed without the review and approval of the Risk Administrator prior to contract execution.

NOTICE OF CANCELLATION

It is understood and agreed that should any Policy issued hereunder be cancelled or non-renewed before the expiration date thereof, or sustain a material change in coverage adverse to the City, the issuing company or its authorized Agent shall give notice to the Department of Aviation in accordance with policy provisions.

Exhibit D

**City and County of Denver
DEPARTMENT OF AVIATION
DEPARTMENT OF PUBLIC WORKS
STANDARD SPECIFICATIONS FOR CONSTRUCTION
GENERAL CONTRACT CONDITIONS**

2011 Edition

CONSTRUCTION CONTRACT GENERAL CONDITIONS

TITLE 1 - DEFINITIONS

101 CITY

"City" means the City and County of Denver, a municipal corporation, organized under and by virtue of Article XX of the Constitution of the State of Colorado.

102 CONTRACT

The "Contract" consists of the executed Contract Form and all of the Contract Documents.

103 CONTRACT AMOUNT

"Contract Amount" means the total amount of money payable to the Contractor under the Contract.

104 CONTRACT DOCUMENTS

"The Contract Documents" consist of the documents which are listed in the Contract Form. The documents which are generally included are listed below:

- Advertisement of Notice of Invitation for Bid
- Instructions to Bidders
- Bid Bond
- Addenda
- Bid Forms
- Affirmative Action/SBE/MBE/WBE/DBE Documents
- Notice to Apparent Low Bidder
- Contract Form
- Performance and Payment Bond
- Certificate of Insurance
- Notice to Proceed
- Change Orders
- Final Receipt or Certificate of Contract Release
- Prevailing Wage Rate Schedule
- General Conditions
- Special Conditions
- Equal Employment Opportunity Provisions
- Federal Requirements (if applicable)
- Technical Specifications
- Contract Drawings
- Accepted Shop Drawings

105 CONTRACT TIME

"Contract Time" is the total number of days provided in the Contract Documents from the date of the Notice to Proceed to the date of Final Completion of the Work. Substantial Completion shall

occur prior to Final Completion. Contract Time may be further defined and divided into phases by the Technical Specifications or Special Conditions. The Contract Documents may require completion on or before a certain specified date. The date of the Notice to Proceed is considered the first day of the Contract Time.

106 CONTRACTOR

"Contractor" means the person, partnership, corporation, limited liability company, joint venture, or other entity that has contracted with the City to perform the Work as an independent contractor.

107 CONTRACTOR PERSONNEL

"Contractor Personnel" means all employees, officers, superintendents of, or persons engaged as independent contractors by the Contractor, or any of its Subcontractors and Suppliers of any tier who perform work under the Contract or who enter the Work site.

108 DAYS

"Days" means consecutive calendar days unless specifically designated otherwise and includes weekends, holidays, or days of normal inclement weather. It will be presumed that the Contractor, at the time of bidding, took into account the number of days which might be unavailable for Work during the Contract Time.

109 DEPUTY MANAGER

The "Deputy Manager" means the official who reports directly to the Manager or to another official who exercises supervisory responsibility in the City agency defined in Title 2 herein that is responsible for the Project.

110 DESIGNER

"Designer," also sometimes referred to as "Design Professional," "Design Consultant" or "Designer of Record," means the engineer or architect who designed the Project and prepared the drawings and specifications. The Designer may be an employee of the City or may be retained by the City as an independent contractor under a professional services contract, and is identified in the Contract Documents. The Designer may be requested to interpret drawings and specifications and review and approve Shop Drawings, Product Data, Samples, and other documents. The Designer, when directed by the City to do so, observes the Work as it is performed, monitors critical construction activities identified in the Contract Documents and participates in the final inspection of the Work, all in coordination with the Project Manager. The Designer may also participate in the preparation and approval of progress and final payment requests.

111 FINAL COMPLETION

"Final Completion" of the Work occurs following Substantial Completion and when the Project Manager confirms in writing that the Contractor has completed the Work in accordance with the Contract, including completion of all punch list items, cleanup work and delivery of all required guarantees, warranties, licenses, releases and other required deliverables.

112 MANAGER

"Manager" means the Manager of Aviation, if the Contract is entered into under the authority of the Department of Aviation; or it means the Manager of Public Works, if the Contract is entered into under the authority of the Department of Public Works. The department is identified in the Contract Documents. Wherever the term "Manager" is used in the Contract Documents, such term refers only to the Manager of Aviation or Public Works, as appropriate, and not to any individual to whom the Manager has delegated authority.

113 PRODUCT DATA

"Product Data" means illustrations, standard schedules, performance charts, instructions, brochures, diagrams, warranties and other information furnished by the Contractor to illustrate a material, product, or system for some portion of the Work.

114 PROJECT

"Project" means the total construction of which the Work to be provided under the Contract Documents may be the whole or a part as indicated elsewhere in the Contract Documents and may include construction by separate contractors.

115 PROJECT MANAGER

The "Project Manager" is the City representative who has day to day administrative responsibility of the Project under the Contract.

116 SAMPLES

"Samples" means physical examples that illustrate materials, equipment, or reasonable workmanship, and establish standards by which the Work will be judged.

117 SHOP DRAWINGS

"Shop Drawings," sometimes also referred to as "Supplemental Drawings," means drawings, diagrams and other data specifically prepared for the Work by the Contractor, any Subcontractor, manufacturer, Supplier, or distributor, to illustrate some portion of the Work and which will be used in the construction of the Work when reviewed and accepted for such use by the Designer or the City.

118 SUBCONTRACTOR

"Subcontractor" means a person or entity having a contract with the Contractor or other Subcontractor of any tier to perform work at the Work site, including the provision of labor, materials, equipment, supplies, tools, services, or other items or services, or any combination thereof. However, this definition is not intended to limit in any way the prevailing wage obligations of the Contractor, as defined by federal, state or local law, or to alter the statutory rights of Subcontractors.

119 SUBSTANTIAL COMPLETION

"Substantial Completion" of the Work means the Work has progressed to the point that the City can beneficially occupy or utilize the Work for the purpose for which it is intended, and the Work complies with all applicable codes and regulations, including, if required, issuance of a certificate of occupancy, or certificate of suitability for use from the appropriate governmental

agencies, as determined by the Manager in his sole discretion. The Deputy Manager will advise the Contractor in writing when Substantial Completion of the Work has been achieved.

120 SUPPLIER

"Supplier" means any material or equipment Supplier having a contract with the Contractor, a Subcontractor, Supplier, or other entity of any tier, to furnish or deliver materials, supplies, tools, equipment, or other items to the Project, but not performing labor at the Work site. However, this definition is not intended to limit in any way the prevailing wage obligations of the Contractor, as defined by federal, state or local law, or to alter the statutory rights of Suppliers.

121 WORK

"Work" means the construction and services required by the Contract Documents and includes all labor, management, administration, supervision, materials, supplies, manufactured components, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

TITLE 2 - CITY ADMINISTRATIVE ORGANIZATIONS; LINE OF AUTHORITY

201 DEPARTMENT OF AVIATION

Vested exclusively in the Department of Aviation are the management and control of designing, planning, construction, reconstruction, and remodeling of all Denver Municipal Airport System facilities. The unit of the Department of Aviation that is responsible for this management and control is identified in the Construction Contract Special Conditions.

202 MANAGER OF AVIATION

The officer in full charge and control of the Department of Aviation is the Manager of Aviation.

203 DEPARTMENT OF PUBLIC WORKS

Vested exclusively in the Department of Public Works are the management and control of the design and construction of general and local public improvements undertaken by the City and County of Denver, except for: (i) work which is under the management and control of the Department of Aviation; (ii) that work performed by the Denver Board of Water Commissioners; (iii) any such work that the Mayor has specifically assigned to another department or agency; and (iv) work under the authority of the Department of Public Works that is performed with the permission of the Manager of Public Works by private entities at their own expense. The unit of the Department of Public Works that is responsible for the administration of this Contract is identified in the Construction Contract Special Conditions.

204 MANAGER OF PUBLIC WORKS

The officer in full charge and control of the Department of Public Works is the Manager of Public Works.

205 BUILDING INSPECTION

The Building Inspection Division is a unit of the City's Community Planning and Development Department. It reviews all drawings and specifications for buildings and structures for compliance with the City's currently adopted Building Code. The Building Inspection Division issues building permits and performs construction inspections for code conformance.

206 ZONING

The Community Planning and Development Department's Zoning Administration unit ("Zoning") is the City agency that reviews site plans and parking arrangements that are not located within the City's Municipal Airport System for compliance with ordinance requirements. Zoning's approval is required prior to release of most building permits. The Contractor must obtain a permit from Zoning to allow storage of equipment, trailers, or materials at a location at or near a construction site, if such location is not within the City's Municipal Airport System. Certificates of Occupancy must be signed by an authorized representative of Zoning prior to their release by the Building Inspection Division. Fee information is available from Zoning. Approvals hereunder are granted or denied in the sole discretion of Zoning.

207 DIVISION OF SMALL BUSINESS OPPORTUNITY

The Director of the Division of Small Business Opportunity (“DSBO”) or persons under the Director's administrative control will review the employment practices of the Contractor and the utilization by the Contractor of Small Business Enterprises (SBE), Minority and Women Business Enterprises (M/WBE) or Disadvantaged Business Enterprises (DBE), as applicable, at all levels of Subcontractors and Suppliers in connection with work performed under the Contract. The reviews will be made to determine whether or not all applicable rules, regulations, ordinances, and laws governing equal employment opportunity, affirmative action programs and SBE, M/WBE, or DBE requirements are complied with. This Office is an independent City agency.

208 CITY AUDITOR

The City Auditor, an independent elected official, reviews certified payrolls for compliance with prevailing wage requirements before payment is made to the Contractor.

209 MANAGER OF FINANCE

The City’s Manager of Finance pays the Contractor for Work approved under the Contract. The Manager of Finance is also the City official responsible for collection of taxes and other monies due to the City.

210 CITY ATTORNEY

The City Attorney represents the City in all legal matters. Before the City executes a construction contract, the City Attorney must have approved the contract for legality and must also have been satisfied that the insurance certificates or policies and the bonds offered by the Contractor satisfy the insurance and bonding requirements in the Contract.

211 OFFICE OF RISK MANAGEMENT

The Office of Risk Management establishes and approves the kinds and amounts of insurance required under each construction contract. Upon submission by the Contractor of proof of such insurance, the Risk Management Administrator, in conjunction with the City Attorney, will review such submissions for acceptability.

212 CITY'S CONTRACT ADMINISTRATION LINE OF AUTHORITY

- .1 The Manager is the City official responsible for the administration of the Contract. He has delegated contract administration authority in the manner and to the person(s) occupying the position(s) identified in the Contract, such as the Deputy Manager or the Project Manager.
- .2 The Deputy Manager reports to the Manager either directly or through another position, and has supervisory responsibility over the Project Manager, either directly or through another position. These General Conditions specify that certain actions or decisions are the responsibility of the Deputy Manager. The Deputy Manager may delegate by Special Condition all or part of his authority to specific intermediate positions. The specific line of authority for each Project shall be identified by the Special Condition.

213 CITY'S COMMUNICATIONS WITH THE CONTRACTOR

The Project Manager will transmit, directly or through others, written instructions, responses or other communications to the Contractor's Superintendent or other persons identified in writing by the Contractor to receive such communications. The Contractor shall, by a letter to the Project Manager, designate (by name) one or more assistant Superintendents to receive oral and written field communications when the Superintendent is away from the Work site and to act as the Superintendent's designated representative. During the times that the Superintendent may be temporarily absent, an assistant Superintendent shall be authorized to act immediately on orders or instructions issued by the Project Manager. If the City finds it necessary to communicate at the Work site with Contractor Personnel authorized to receive such communications and none are available to receive such communications, the City may suspend all of the Contractor's operations at that Work site until such communications can be accomplished.

TITLE 3 - CONTRACTOR PERFORMANCE AND SERVICES

301 CONSIDERATION (CONTRACTOR'S PROMISE OF PERFORMANCE)

- .1 The Contractor promises to perform the Work or cause the Work to be performed in a manner that is in compliance with the requirements of the Contract Documents.
- .2 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, temporary construction easements, permits and other facilities and services, necessary for the proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated into the Work.
- .3 The Contractor shall supervise and direct the Work using the Contractor's best efforts, skill and attention. The Contractor shall also supervise, direct and be responsible for all work performed by its Subcontractors, their agents and employees and other persons performing any of the Work under a contract with the Contractor, Subcontractors of any tier or Suppliers of any tier. The Contractor shall be solely responsible for all construction means, methods, safety, techniques, sequences and procedures unless otherwise specified in the Contract Documents.

302 NOTICE TO PROCEED AND COMPLETION OF THE WORK

- .1 A written Notice to Proceed with the Work will be issued by the Deputy Manager, and the Contractor shall start the Work within ten (10) Days of the date of that Notice to Proceed. Thereafter, the Contractor shall be responsible for achieving Final Completion of the Work in accordance with the Contract Documents.
- .2 If any milestones are described in the Contract Documents, the Work described by each milestone shall be accomplished in accordance with the Contract Documents.
- .3 The Contractor shall complete the Work within the specified Contract Time.

303 EXACT CONTRACTOR PERFORMANCE

The Contractor shall perform the Work exactly as specified by the Contract Documents.

304 SUBSTITUTED PERFORMANCE

If the Contractor's failure of exact performance does not appear to the City to be deliberate or willful and if the City concludes that less than exact performance in some minor part of the Work will not result in a decrease in quality in the entire Work, the City may, at its sole option, accept substituted performance. Should the City accept substituted performance, the cost of the Work shall be reduced by the sum of money that the City determines to be a reasonable consideration for less than exact performance and the City may, at its discretion, require separate warranties for any substituted performance.

305 WORK PERFORMED UNDER ADVERSE WEATHER CONDITIONS

- .1 Adverse weather conditions are those that are not abnormal weather conditions but that can, depending on the Work to be performed, cause defective Work. High or low temperatures, excessive moisture, or unusual drying conditions are examples. Abnormal weather conditions are discussed in GC 1105.3.
- .2 Construction methods and practices that have been or may be developed for Work performed under such circumstances may only be used after the Deputy Manager has approved the concept of such method or practice.
- .3 If the Contractor does attempt Work during periods of adverse weather conditions, that Work shall be at the Contractor's sole risk even if the plan of action or method employed is approved in concept by the Deputy Manager.

306 WORKING HOURS AND SCHEDULE

- .1 For Contracts executed under the authority of the Manager of Public Works:
 - A. Work shall normally not be done on Saturdays, Sundays, City observed holidays, or outside of the daytime working hours that may be specified in the Special Conditions, except for such work as may be necessary for proper care, maintenance, and protection of Work already done, or in cases when the Work would be endangered or when hazard to life or property would result. The Contractor shall comply with the City's noise control ordinance during all working hours.
 - B. If the Contractor believes it may be necessary to work on Saturdays, Sundays, holidays, or at night, the Contractor shall make prior arrangements with the Project Manager and receive written approval at least twenty-four (24) hours before such work period so that proper inspection and engineering services can be provided. Such approval may be revoked by the Project Manager if the Contractor fails to maintain adequate equipment and lighting at night for the proper prosecution, control and inspection of the Work. If Work is done outside of approved working hours, and the Project Manager has not assigned inspectors to the Work, the Work performed during those periods of time may be declared defective solely on the grounds that it was not properly inspected.
- .2 For Contracts executed under the authority of either the Manager of Public Works or the Manager of Aviation:
 - A. The Contractor shall schedule and coordinate the performance of all of its Subcontractors and Suppliers, including their use of the Work site. The Contractor shall keep the Subcontractors and Suppliers informed of the Project construction schedule to enable the Subcontractors and Suppliers to plan and perform their work properly.
 - B. Within ten (10) Days of the issuance of Notice to Proceed, or as otherwise set forth in the technical specifications, the Contractor shall submit a construction schedule which shall provide for the expeditious and practicable execution of the Work. Such construction schedule shall be in a Critical Path Method (CPM)

format or such other format approved by the Project Manager. A Critical Path Method schedule shall be required in any event for any Contractor Change Request pursuant to GC 1103.4 and any resulting claim. The receipt of the schedule by the Project Manager shall in no way constitute acceptance of the Contractor's anticipated schedule of construction activities. The schedule will be reviewed for comment by the Project Manager. Any Contract completion date set forth in the Contractor's schedule shall in no way change the Contract Time. The Project Manager's review and comment on the schedule shall not constitute approval or acceptance thereof by the City.

- C. The Critical Path Method schedule shall provide reasonable detail as described in the Technical Specifications and shall include a time scaled network and computer printout. Additionally, float or slack is defined as the amount of time between the early start date and the late start date, or the early finish date and the late finish date, of any activities in the schedule. Float or slack is not time for the exclusive use or benefit of either the Contractor or the City.
- D. The Contractor shall, once a month, submit a progress report and an updated schedule in a form acceptable to the Project Manager.

307 CONTRACTOR'S SUPERINTENDENT

The Contractor shall employ and designate to the Deputy Manager in writing a competent Superintendent whose qualifications shall be acceptable to the Deputy Manager. The Superintendent shall serve on a full-time basis at the Work site and shall be authorized to act on behalf of the Contractor in all matters related to the Work. The same person shall continue in the capacity of Superintendent until the Work has been completed, unless the Deputy Manager requests that the Superintendent be replaced, the Superintendent ceases to be employed by the Contractor or the Superintendent becomes sick or disabled. The Superintendent or his designated representative must be on site at all times when on-site Work is performed.

308 COMMUNICATIONS

An orderly system for communication between the City and the Contractor is essential to the satisfactory completion of the Work. Communications between the Contractor and the City shall be in accordance with the provisions of the Contract Documents.

309 CONTRACTOR SUBMITTALS AND OTHER WRITTEN COMMUNICATIONS TO THE CITY

- .1 The Contractor shall submit to the City all documents required by the Contract Documents.
- .2 Formal communications from the Contractor to the City that are necessary for the performance of the Contract, including documents described in the Contract Documents, and any other written communications, will be addressed to the Project Manager unless otherwise specified in the Contract Documents. Only when the Contractor finds it necessary to request review of a decision of the Project Manager shall the Contractor address correspondence directly to the Deputy Manager. All written communications or submittals shall be signed by the Contractor's Superintendent. Additional requirements regarding submittals are set forth in the Technical Specifications.

- .3 The City expects and the Contractor agrees that the Superintendent is in full charge of all Contractor activity on the Project unless the Contractor has designated in writing other persons authorized to send and receive formal communications, and the specific authority of such designated persons.
- .4 The Contractor shall prepare and keep current a schedule of submittals which shall note all required submittals, submittal dates, required approval dates and all required delivery dates.

310 COMPETENCE OF CONTRACTOR'S WORK FORCE

Competent personnel with experience and skills adequate for the assigned tasks are an absolute necessity for job safety and for the performance of quality work. The Contractor shall reassign or remove from the Project all Contractor Personnel who are requested to be reassigned or removed by the Project Manager or who are incompetent, uncooperative, refuse to comply with safety requirements, are unable to obtain required badges or clearances for contracts of the Aviation Department or of other City agencies or have such badges or clearances revoked, or are otherwise unfit to perform the assigned task.

311 NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE CONTRACT

- .1 This Contract is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").
- .2 The Contractor certifies that:
 - A. At the time of its execution of this Contract, it does not knowingly employ or contract with an illegal alien who will perform work under this Contract.
 - B. It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.
- .3 The Contractor also agrees and represents that:
 - A. It shall not knowingly employ or contract with an illegal alien to perform work under the Contract.
 - B. 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 Contract.
 - C. It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract, through participation in the E-Verify Program.
 - D. It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Contract, and that otherwise requires the Contractor 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.

- E. If it obtains actual knowledge that a subcontractor performing work under the Contract 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.
 - F. It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. § 20-90.3.
- .4 The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Contract for a breach of the Contract. If the Contract is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.

312 CONDUCT OF CONTRACTOR'S PERSONNEL

- .1 All Contractor Personnel must conduct themselves in an orderly and disciplined manner while engaged in the performance of the Project both on and off of the Work site. The City expects and will demand that the Contractor enforce acceptable and appropriate conduct by all Contractor Personnel to enhance job and public safety and to present to the public the best possible image of City construction activities.
- .2 Should any Contractor Personnel behave in a disorderly manner or be abusive to others by language or actions while engaged in the performance of the Project either on or off the Work site, and if the Contractor fails to properly discipline the offender and provide satisfactory assurance that such behavior will not recur, the City is authorized to demand that the Contractor no longer assign the offender to any City work. Upon such written demand, the Contractor shall promptly remove that individual from the Project.

313 SUGGESTIONS TO CONTRACTOR

Any plan of action, method of work, or construction procedure suggested orally or in writing to the Contractor by any City employee, agent or representative or by the Designer, which is not set out in Change Orders or other written directives issued in accordance with the Contract Documents, if adopted or followed by the Contractor in whole or in part, shall be performed at the sole risk and responsibility of the Contractor.

314 WORK FORCE

- .1 The Contractor shall assign an adequate number of qualified, competent workers to each task to complete the Work on schedule and in accordance with the Contract Documents.
- .2 If the City believes that the Work is not proceeding satisfactorily or may not be satisfactorily completed in the allotted time because the Contractor has not employed an

adequate number of qualified, competent workers, at no additional cost to the City, the Project Manager may, by letter to the Contractor, pursuant to this General Condition and GC 704, require the Contractor to employ additional qualified, competent workers, at no additional cost to the City, to raise the rate of progress to an acceptable level.

315 CONSTRUCTION MACHINES AND STANDBY EQUIPMENT

The Contractor shall have available for use when needed all necessary construction machinery and equipment. Such machinery and equipment shall comply with all applicable federal, state and local safety requirements and be in good working condition, adequate for the task, and in the numbers needed to maintain a rate of progress sufficient to complete the Work within the Contract Time and milestones. Whenever an operation is undertaken which must be accomplished without any slowdown or stoppage, or to avoid an inferior product, the Contractor shall provide standby equipment capability so that an equipment breakdown does not disrupt that activity.

316 CUTTING AND PATCHING THE WORK

- .1 The Contractor shall be responsible for all cutting, fitting, or patching that may be required to complete the Work, to make its several parts fit together properly or to tie the Work into other work that is shown in the Contract Documents.
- .2 The Contractor shall organize and plan the Work to reduce to a minimum the need for cutting or otherwise modifying or removing load bearing structural elements to accommodate the installation of other elements of the Work. If two or more contractors are doing work in the same place, the Contractor shall be responsible for the coordination effort needed to avoid or to reduce the amount of cutting, modifying or removing of structural elements to accomplish such work. However, if modification or removal of structural elements is required because the Work could not be organized and planned to avoid that need, the Contractor shall inform the Project Manager of the need so that the consequences of such modification or removal of structural elements can be assessed. No structural element shall be cut, drilled, bored or otherwise modified unless cutting, drilling, boring or other modification is indicated in the Contract Documents.
- .3 If the Contractor needs to modify a structural element from its original design, the Contractor must submit to the Project Manager a request to make the modification. The request must provide complete details including all necessary calculations performed by a Professional Engineer licensed in the State of Colorado to show that the structural elements can still function as originally designed. The request must be accepted by the Project Manager before any modification is made.
- .4 The Contractor shall be responsible for all repair, replacement, and patching that is necessary to restore the Work, other property, or work of others damaged by the Contractor.

317 PERMITS AND LICENSES

- .1 The Contractor is required to possess the appropriate contractor licenses issued by the Department of Public Works pertaining to the Work to be performed.

- .2 The Contractor and its Subcontractors and Suppliers shall obtain and pay for, in a timely manner, all required business licenses, permits and certificates.
- .3 The Contractor shall obtain and pay for all licenses, permits or approvals required in the prosecution of the Work, including but not limited to all permits, licenses or approvals to tap water and sewer lines, to occupy or operate within the public right of way, or to comply with Zoning requirements. The Contractor shall also be responsible for the payment of any applicable taxes, tap fees, sewer fees, inspection fees, development fees, Zoning fees, or other charges and fees imposed by any utility company or governmental agency.
- .4 If Contractor equipment, trailers or materials are to be stored on or near a construction site, the Contractor must obtain, at its sole expense, a temporary permit from the City's Zoning Office, if applicable, and shall comply with applicable fencing requirements for such storage. However, if such storage location is within land constituting the City's Municipal Airport System, the Contractor shall obtain approval from the Project Manager for such storage, instead of from the Zoning Office.
- .5 The Contractor is required to understand and comply with the ordinances and rules and regulations administered by the Building Inspection Division, including the requirements for permits for public buildings, excavations, retaining walls, and fences, in connection with its performance of the Work. The Contractor is responsible to pay all such building permit fees in a timely manner.

318 CONSTRUCTION SURVEYS

- .1 Unless otherwise stated in the Technical Specifications or the Special Conditions, the City will provide all reference points shown on the Contract Drawings by coordinates and/or elevation. The Contractor must accurately transfer the survey control information to the points of application to ensure that all elements of the Work are correctly located.
- .2 Requests by the Contractor to relocate survey reference points must be made ninety-six (96) hours prior to the time when the point will be disturbed in order to permit the City to accomplish such surveys on normal working days.
- .3 Any Work that the Contractor begins before confirming the reference points provided may be rejected. Should the original reference points that the City provided be obliterated or dislodged by operations that the Contractor controls, the City will replace them and charge the Contractor for the resurvey. The cost of these resurveys will be determined by multiplying the hourly equivalent of the salaries and fringe benefits paid to the survey personnel actually involved in the resurvey by the hours expended in doing that resurvey, plus material and equipment costs.

319 PRESERVATION OF PERMANENT LAND SURVEY CONTROL MARKERS

Throughout the City there exists an extensive system of benchmarks and monuments installed for the purpose of maintaining a land survey control grid. Prior to the commencement of work on the Project, each existing survey monument and benchmark shall be tied out so that it can be reestablished after completion of the Work should it be damaged. Ties shall be maintained during construction. Survey monuments and benchmarks that existed prior to construction, but

that were damaged or destroyed during construction, shall be reset or rehabilitated in accordance with State requirements at no cost to the City.

320 TRADEMARKS, COPYRIGHTS AND PATENTED DEVICES, MATERIALS, AND PROCESSES

- .1 The Contractor's bid price shall be considered to include a sufficient sum to cover all fees, royalties and claims for any material, artist rights, process, patent rights, machine, appliance, copyright, trademark, or any arrangement that may be used upon or in any manner connected with or appurtenant to the Work.
- .2 If the Contract Documents require, or the Contractor desires to use, any design, device, material, or process covered by letters, patents, copyrights, trademarks, or artist rights, it shall provide for such use by suitable written agreement with the patentee or patent owner, copyright owner, trademark owner, or artist, which agreement shall provide that there will be no future or continuing royalties or payments or obligations by the Contractor or by the City.
- .3 The Contractor and the surety shall, at all times, defend, save harmless, and indemnify the City, its Officers, agents, and employees from and against all fees, royalties, demands, claims, or suits by reason of any infringement or alleged infringement of such patent rights, copyrights, trademark rights, intellectual property rights or artist's rights; provided, however, the Contractor need not indemnify against the negligence of the City, its officers or employees. This obligation shall survive the termination of the Contract.

321 PROJECT SIGNS

- .1 Under no circumstances except for safety will the Contractor be permitted to post any signs other than those required by the Contract Documents without the written approval of the Project Manager.
- .2 The following requirements apply only to contracts of the Department of Public Works, and not to those of the Department of Aviation:
 - A. Two standard project signs shall be posted at each Work site. The City will prepare these signs at its expense. When the City notifies the Contractor that the signs are ready, the Contractor shall deliver the signs to the Work site and install them in locations designated by the Project Manager. As the Work progresses, the Project Manager may direct the Contractor to relocate the signs. The Project Manager will direct the Contractor as to final removal of the signs, either upon completion of the Work or at such other time as the Project Manager may determine.
 - B. All costs of transporting, installing, relocating and removing such signs shall be borne by the Contractor. The Contractor shall pay the costs of repairing any damage to the signs which occurs after the Contractor takes possession of the signs.
 - C. Unless the Special Conditions require additional signs, only the two project signs described in this GC will be used.

322 PUBLICITY AND ADVERTISING

- .1 Neither the Contractor nor its Subcontractors or Suppliers shall include any reference to the Contract or to Work performed hereunder in any advertising or public relations materials without first obtaining the written approval of the Deputy Manager. All information so included shall be factual, and shall in no way imply that the City endorses the Contractor or its services or product.
- .2 The City shall have the right to photograph, videotape, film or in any other manner record the progress of the Work at any time and to use such materials for any purpose.

323 TAXES

- .1 All tangible personal property used in the construction of the Work or incorporated into the Work will be subject to all local government and State of Colorado sales or use taxes, and neither the Contractor nor its Subcontractors or Suppliers shall be exempt from paying sales or use taxes, except as provided by law.
- .2 Construction and building materials sold to contractors and subcontractors for use on airports, aeronautical facilities, buildings, structures, roads, streets, highways, and other public works owned by the City are exempt from State of Colorado, Scientific And Cultural Facilities District, and Regional Transportation District sales or use taxes. However, such materials are subject to sales or use taxes imposed by the City and, if applicable, other taxing authorities. Such City sales or use taxes shall in no instance be part of any compromise or settlement of any claims on the Project or any lawsuit related to the Project without the written consent of the City's Manager of Finance.
- .3 The purchase cost or value of construction tools or equipment used on the Work site is subject to sales and use tax payable to the State of Colorado and the City. Credit is given for state and city sales and use taxes paid to other jurisdictions.
- .4 The Contractor and any Subcontractor who manufactures tangible personal property that is used or consumed by the manufacturer/Contractor, including the installation into or the affixing to real property of another of the tangible personal property, for which there exists also a retail market, is subject to the City's sales or use tax, but the tax due in such case shall be due on the gross value of all the materials, labor and services used and employed in the manufacture of said property.
- .5 In order to obtain the State of Colorado, RTD and other taxing authority exemptions, the Contractor and Subcontractors or Suppliers must apply to the Colorado Department of Revenue for a certificate, or certificates, of exemption indicating that their purchase of construction or building materials is for a public project. Complete copies of Applications for Exemption Certificates with the approval of the Colorado Department of Revenue or successor agency noted thereon should be delivered to the City if possible prior to the issuance of the Notice to Proceed and if not, as soon as possible thereafter. The Contractor will furnish the Project Manager with copies of the approved applications of all of its Subcontractors.
- .6 Any employee working for the Contractor or any Subcontractor or Supplier who earns over Five Hundred Dollars (\$500.00) working in the City and County of Denver during a calendar month, is subject to the payment of the Employee Occupational Privilege Tax.

The Contractor and each Subcontractor or Supplier must withhold the Employee Occupational Privilege Tax from the wages of each employee who is subject to it, remit the tax to the City, and pay to the City the correlative Business Occupational Privilege Tax imposed on the employer for such employee.

- .7 The Contractor must remit payment on any and all personal property taxes assessed under CRS §39-1-101, et seq, and §39-5-101, et seq., when due.
- .8 The foregoing contractual terms are intended to accurately reflect existing applicable law; however, if any of the foregoing provisions conflict with the laws, determinations or regulations of the City, the latter shall control.
- .9 Final payment will not be made until the foregoing contractual obligations are met and all tax payments are made current.

324 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain and keep current at the Work site, one record copy of all drawings, specifications, permits, addenda and Change Orders in good order to record all changes made during construction. The Contractor shall also maintain and keep current copies of all approved Shop Drawings, Product Data, and Samples.

325 CLEANUP DURING CONSTRUCTION

- .1 The Contractor shall keep the Work site and the surrounding premises free of accumulated waste materials at all times. If space is available, the Project Manager may designate a place on the premises to collect all debris and rejected materials. If such space is designated, the Contractor shall, at his expense, install fencing and whatever else is needed to keep loose materials confined so that they are not scattered by the winds. The Contractor shall remove the waste material to a suitable licensed landfill at least weekly or more often, whenever the waste material creates a safety or health hazard or interferes with any Contractor's, Subcontractor's or Supplier's work.
- .2 Accumulations of mud or debris that are tracked onto areas adjacent to the Work site, or onto streets, airfield pavements, City property or public rights-of-way even if not adjacent to the Work site, by construction equipment of the Contractor or any Subcontractor or Supplier, must be removed promptly and not allowed to create a hazard or an unsightly condition.
- .3 Equipment and tools needed for the Work must be kept out of traveled ways such as streets, alleys, parking areas, sidewalks and airfield pavement areas. Equipment that may endanger vehicular or pedestrian traffic must be suitably lighted and marked to prevent motorists and pedestrians from colliding with that equipment.
- .4 The Contractor's obligations to maintain a clean, safe and orderly Work site include responsibility for pest control and vector control. All pest and vector control activities shall be conducted in compliance with applicable laws, including ordinances, statutes and regulations governing the handling, storage and application of pesticides or other hazardous materials and substances.
- .5 If, in the sole opinion of the Project Manager, the Contractor fails to maintain the Work site in a clean, orderly, and safe condition, progress payments may be withheld or the

City may have others perform the clean up work and deduct the cost thereof from such progress payments. If more than one Contractor was working in the uncleaned area, a proportionate part of the cost will be deducted from progress payments to all such contractors in the area based upon a breakdown determined by the Project Manager and Deputy Manager.

326 SANITARY FACILITIES

The Contractor shall provide and maintain in a neat and sanitary condition at a location approved by the Project Manager that is properly screened from public view, such sanitary facilities as are needed to comply with the requirements and regulations of any agency having jurisdiction, for the use of all persons engaged on the Work. Upon the completion of the Work, the Contractor shall promptly remove such facilities.

327 POWER, LIGHTING, HEATING, VENTILATING, AIR CONDITIONING AND WATER SERVICES

- .1 The Contractor shall pay for all energy and water needed to do the Work and provide and pay for all temporary facilities needed to deliver that energy and water to the Work. These temporary facilities shall be installed and maintained in such a manner as to protect the public and workers and conform with any applicable laws, rules and regulations. Upon completion of the Work, the Contractor shall promptly remove all such temporary facilities.
- .2 The Contractor shall also provide and maintain lighting at the Work site adequate for the protection of the public and the workers, all in conformance with any applicable laws and local regulations.
- .3 If temporary heating, ventilating or air conditioning is required before the permanent heating, ventilating or air conditioning system is available, the Contractor shall provide at its own expense, not to be reimbursed by the City, HVAC apparatus acceptable to the Project Manager and shall provide all required fuel.
- .4 When the heating, ventilating or air conditioning system in any new construction is ready for operation, the Contractor may set it into operation and remove the temporary HVAC equipment. Operation of the heating, ventilating or air conditioning system prior to Substantial Completion of the Work is at the Contractor's risk and expense, and shall not affect the extent or period of Contractor's or manufacturer's warranties or guarantees on any such equipment or system.

TITLE 4 - CONTRACT DOCUMENTS (DRAWINGS AND SPECIFICATIONS)

401 CONTRACT DOCUMENTS - REVIEW AND INTERPRETATION

- .1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The individual documents comprising the Contract Documents are all essential parts of the Contract and a requirement occurring in one is binding as though occurring in all; they are complementary and indicate the construction and completion of the Work. All Contract Documents must be read together. Anything mentioned in the Technical Specifications and not shown on the Contract Drawings, or shown on the Contract Drawings and not mentioned in the Technical Specifications, shall be of like effect as if shown or mentioned in both.
- .2 Material and workmanship specified by the number, symbol, or title of a referenced standard shall comply with the latest edition or revision thereof and any amendments or supplements thereto in effect on the date the bid is received except where a particular issue or edition of a publication is indicated. In case of a conflict between the Technical Specifications and the referenced standard, the more stringent shall govern, as determined by the Project Manager.
- .3 Conflict or inconsistencies among the Contract Documents shall be resolved as follows:
 - A. Special Conditions shall be given precedence over General Conditions.
 - B. General Conditions shall be given precedence over Technical Specifications except that if, and to the extent that, the Technical Specifications provide for a higher standard or more stringent requirements than the General Conditions, the Technical Specifications shall be given precedence in such respects.
 - C. Technical Specifications shall be given precedence over Contract Drawings.
 - D. Larger scale drawings shall be given precedence over smaller scale drawings, for example: 1" = 1' is larger scale than 1" = 40' and 1" = 1' is larger scale than 1/8" = 1'.
 - E. Where appearing on drawings, computed dimensions shall govern over scaled dimensions.
 - F. In the event of conflict or inconsistency between provisions of the Technical Specifications, the more stringent shall be given precedence over the less stringent.
- .4 The Contractor shall carefully study the Contract Documents and shall immediately report in writing to the Project Manager any error, conflict, inconsistency, or omission that may be discovered and shall obtain specific written instructions from the Project Manager before proceeding with the Work.
- .5 The Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved drawings, specifications, instructions, Shop Drawings, Product Data, or Samples for such portion of the Work.

- .6 If labor, materials or equipment, although not described by the Contract Drawings or Technical Specifications, is required to successfully complete the Work and can reasonably be inferred by competent contractors by virtue of common knowledge or customary practice in the construction industry from the Contract Documents as being necessary to produce the intended result, the Contractor shall perform that work or provide the materials or equipment as if they were specified.
- .7 If the Contractor or any of its Subcontractors or Suppliers, knows or reasonably should know by virtue of common knowledge or customary practice in the construction industry that any of the Contract Documents are at variance with applicable laws, statutes, ordinances, building codes, or rules or regulations, in any respect, the Contractor shall promptly notify the Project Manager in writing, and any necessary changes shall be accomplished by issuance of an appropriate Change Order or field directive. If the Contractor or any of its Subcontractors, perform any work when they know or reasonably should know that it is contrary to such laws, statutes, ordinances, building codes, rules or regulations, the Contractor shall assume full responsibility therefore and shall bear all costs attributable thereto.
- .8 The Contractor, before commencing work, shall verify all governing dimensions, and shall examine, to the extent reasonable, all adjoining work on which its Work is in any way dependent. No disclaimer of responsibility for defective or non-conforming adjoining work will be considered unless written notice of the same has been filed by the Contractor and agreed to in writing by the Project Manager before the Contractor begins any part of the affected Work.
- .9 The various headings contained in the Contract Documents are inserted for convenience only and shall not affect the meaning or interpretation of the Contract Documents or any provision thereof.

402 OWNERSHIP OF CONTRACT DRAWINGS AND TECHNICAL SPECIFICATIONS

All Contract Drawings and Technical Specifications are the property of the City and shall not be used by the Contractor for any purpose other than the Work to be performed under the Contract. Upon completion of the Work, all Shop Drawings and as-built drawings, including all material in electronic format shall become the property of the City. The Contractor will be permitted to maintain a copy of the Contract Drawings, Technical Specifications and Shop Drawings as necessary to maintain a Contract record file.

403 CONTRACT DRAWINGS AND TECHNICAL SPECIFICATIONS ISSUED TO THE CONTRACTOR

- .1 The City will provide at no charge an electronic file containing the plans and specifications from which the Contractor can make additional copies at its own expense.
- .2 Contractor must maintain a set of Contract Drawings and Technical Specifications in good condition at the Work site for the purpose of recording "as-built" conditions in order to develop a record of the construction of the Work. On this set, the Contractor shall daily record all changes and deviations in a neat and legible manner. Any deviation between Contract Drawings and Technical Specifications and the Work actually done, no matter how insignificant, must be recorded. Of special concern is that all underground utility

structures encountered in performing the Work be correctly located on such Drawings by means of physical ties or dimensions to permanent monuments or structures. When the Work is completed, the Contractor shall deliver this single set of Contract Drawings and Technical Specifications to the Project Manager. These Drawings must be submitted to and approved by the Project Manager before final payment can be made.

- .3 The Contract Documents provided to the Contractor must be provided in identical form, by the Contractor, to its Subcontractors and Suppliers.

404 REQUESTS FOR INFORMATION OR CLARIFICATION

- .1 The Contractor shall submit any requests for information or clarification of Contract Drawings and Technical Specifications to the Project Manager or to the person who has been designated by the Project Manager to receive such requests. When the City responds to such requests for information or clarification, it will issue a response which can consist of a written explanation with or without drawings or other information in the City's sole discretion. Such requests and responses to such requests shall neither authorize nor constitute time extensions or changes in the Contract Amount. Should the Contractor believe that the response to any request for information or clarification requires a change in Contract Time or Contract Amount, it shall submit a Contractor Change Request to the Project Manager in accordance with GC 1103.
- .2 The Contractor shall review and attempt to answer requests for information or clarification from its Subcontractors and Suppliers. Such requests shall be encompassed within the Contractor's request for information or clarification by the Contractor to the Project Manager if the Contractor is unable to answer such requests.

405 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- .1 The Contractor shall submit all Shop Drawings, Product Data and Samples, as defined in these General Conditions, to the Project Manager or the Designer in accordance with the requirements in the Technical Specifications, or as otherwise directed in writing by the Project Manager. Shop Drawings and Product Data will be returned to the Contractor with a written transmittal in accordance with the Technical Specifications.
- .2 The Contractor shall prepare, review, certify, endorse and submit, to the Project Manager or the Designer, with reasonable promptness, and in such sequence as to cause no delay in the Work, all Shop Drawings, Product Data and Samples required by the Contract Documents. The Contractor shall submit a submittal schedule for Shop Drawings, Product Data and Samples as required by the Special Conditions or Technical Specifications, or as otherwise directed in writing by the Project Manager. All such drawings and other material shall contain identifying nomenclature and each submittal shall be accompanied by a transmittal identifying in detail all enclosures. Facsimile reproductions of Contract drawings shall not be used, in whole or in part, for the direct submittal of Shop Drawings unless specifically approved by the Project Manager.
- .3 By preparing, certifying, and submitting Shop Drawings, Product Data, and Samples, the Contractor represents that the Contractor has determined and verified all materials, field measurements, and field construction criteria related thereto, and has checked and coordinated the information contained within such submittals with the requirements of

the Work, the Project, the Contract Documents and previously reviewed and accepted submittals.

- .4 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the acceptance of Shop Drawings, Product Data or Samples unless the Contractor has specifically disclosed such deviation, in writing, at the time of submission and obtained written acceptance of the specific deviation by the Project Manager or Designer. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data, or Samples by the City's review and acceptance of them. Review and acceptance of a specific item shall not indicate acceptance of an assembly of which the item is a component.
- .5 All resubmittals shall either on their face, or in the accompanying transmittal, clearly indicate all revisions which have been made since the previous submittal, whether or not such revisions were requested by the City.
- .6 The Designer may review the Contractor's submittal such as Shop Drawings, Product Data, Samples, certificates and test results for conformance with the Contract Documents. Review by the Designer or Project Manager shall not relieve the Contractor of its responsibilities under the Contract Documents. All such portions of the Work shall be in accordance with the accepted submittal. No portion of the Work requiring submission of Shop Drawings, Product Data, or Samples shall be commenced until the submittal has been accepted. Such acceptance shall not relieve the Contractor of its responsibilities under the Contract Documents.
- .7 If required by the Project Manager, the Contractor will submit Shop Drawings, Product Data, Samples, certificates and test results electronically on a system specified by the Project Manager at no cost to the City.

406 SUBSTITUTION OF MATERIALS AND EQUIPMENT

- .1 After the award of the Contract, the Contractor may ask for substitution of specified material or equipment with equal or equivalent items only under the following circumstances: (i) The Contractor provides evidence to the Project Manager that, in the Project Manager's sole opinion, establishes that an item of specified material is not available; (ii) the Contractor provides evidence to the Project Manager that, in the Project Manager's sole opinion, establishes that the specified item will have an unreasonable delivery time due to no fault of the Contractor; or (iii) acceptance of such substitution would result in a significant saving to the City without materially impairing the quality or performance of the Work. If any of these circumstances exist, the Contractor shall request approval for a substitution at least thirty (30) Days before the material or equipment must be ordered.
- .2 All requests for substitutions shall be made in writing as part of a submittal. The request shall describe all features of the requested substitution including any tie-in with other elements of the Work, including utilities and controls along with the size and capacity of substitute materials or equipment. The request must be submitted on a form provided by or otherwise acceptable to the Project Manager, and shall list all differences from the product described in the Technical Specifications, include the price of the specified item

and the requested substitution, and describe any advantages or disadvantages of the proposed substitution. The Contractor shall be responsible for any effect upon related Work in the Project of any substitution and shall pay any additional cost resulting from or relating to any substitution.

- .3 If the "equal or equivalent" material or equipment costs less than that specified, the Contractor shall so state in its request for substitution and if the City accepts the proposed substitution it may issue a Change Order to reduce the Contract Amount by the amount of the direct cost savings without markup to the Contractor.
- .4 If the "equal or equivalent" material or equipment is accepted for the reasons described in GC 406.1 (i) or (ii), the City may, if appropriate, issue a Change Order to increase the Contract Amount by the resulting actual, direct cost increase, if any, to the Contractor, without markup.

TITLE 5 - SUBCONTRACTS

501 SUBCONTRACTS

- .1 The Contractor may subcontract portions of the Work within the percentage limits authorized in the Special Conditions, and each subordinate level of Subcontractor may subcontract portions of the Work which have been subcontracted to it. However, all subcontracting must be done in strict observance of this Title 5, and the Contractor shall not structure its subcontracting so as to intentionally avoid the obligations of this Title 5.
- .2 The Contractor is prohibited from hiring any subcontractor currently debarred by the City under section 20-77 of the Denver Revised Municipal Code.
- .3 The Contractor shall be responsible for any acts or omissions of its Subcontractors, Suppliers and Contractor Personnel. In addition, all work performed for the Contractor by a Subcontractor or Supplier shall be pursuant to an agreement between the Contractor and the Subcontractor or Supplier which shall contain provisions that:
 - A. Require the Subcontractor or Supplier to be bound to the Contractor by the terms of the Contract Documents;
 - B. Require all subcontracted work to be performed in accordance with the requirements of the Contract Documents, and, that with respect to the work the Subcontractor or Supplier performs, that the Subcontractor or Supplier assume toward the Contractor all the obligations and responsibilities which the Contractor assumes toward the City;
 - C. Preserve and protect the rights of the City and its funding agencies under the Contract Documents with respect to the Work to be performed so that the subcontracting thereof will not prejudice those rights;
 - D. Require each of its Subcontractors or Suppliers to include in their contracts with lower tier Subcontractors or Suppliers these same requirements; and
 - E. Require each Subcontractor or Supplier to make copies of the Contract Documents available to the Subcontractor's or Supplier's Subcontractors or Suppliers.
- .4 The Contractor shall make available to each proposed Subcontractor or Supplier, prior to the execution of the subcontract, copies of the Contract Documents.

502 SUBCONTRACTOR ACCEPTANCE

- .1 Except as provided in the City's Small Business Enterprise (SBE), Minority and Woman Business Enterprise (M/WBE) and Disadvantaged Business Enterprise (DBE) contracting requirements, the City recognizes that prior to bidding, the bidder may not have been able to negotiate for all portions of the Work which the bidder proposes to subcontract. The City will, therefore, permit the successful bidder to propose additional Subcontractor(s) at any time during the Contract period provided, however, that any limitation on subcontracting has not been exceeded, and that all such SBE/MBE/WBE/DBE

requirements are adhered to. If the proposed Subcontractor(s) are acceptable and the City, by letter to the Contractor, approves of the Subcontractor(s), the Contractor may enter into agreements with these parties. If any proposed Subcontractor(s) are not acceptable to the City, the Contractor must submit for City approval the names of substitute Subcontractors.

- .2 Each Subcontractor that the Contractor expects to perform Work must be accepted in writing by the Manager before the Subcontractor begins work. The acceptance or rejection of any proposed Subcontractor shall be at the Manager's sole discretion. The reasons the Manager may use for not accepting a Subcontractor include, but are not limited to, the following:
 - A. Default on a contract within the last five (5) years.
 - B. Default on a contract that required that a surety complete the contract under payment or performance bonds issued by the surety.
 - C. Debarment within the last five (5) years by a public entity or any organization that has formal debarment proceedings.
 - D. Significant or repeated violations of Federal Safety Regulations (OSHA).
 - E. Failure to have the specific qualifications listed in the Contract Documents for the work that the Subcontractor will perform.
 - F. Failure to have the required City or Colorado licenses to perform the work described in the subcontract.
 - G. Failure to pay workers the proper wage and benefits or to pay suppliers or subcontractors with reasonable promptness within the last five (5) years.
 - H. Conviction, plea of nolo contendere, entry into a formal agreement admitting guilt or entry of a plea of guilty or otherwise admitting culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, anti-trust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Subcontractor's business, on the part of Subcontractor's principal owners, officers, or employees, within the last five (5) years.
 - I. Failure to pay taxes or fees to the City.
 - J. Evidence that the Subcontractor was selected by the Contractor through the process of bid shopping, dishonesty or buyout.
- .3 Within thirty (30) Days of receipt of the Notice to Apparent Low Bidder and before the Manager accepts any such Subcontractor, the Contractor shall submit a statement signed by an officer or principal of the Contractor certifying that the Contractor has investigated the qualifications and background of each proposed Subcontractor and certifying under oath that, to the best of his or her knowledge, none of the bases for rejection listed above exist. In lieu of this certification, the Contractor may identify, for each proposed Subcontractor, any of the issues listed above applicable to that Subcontractor and attach to that statement a list of all judicial and administrative proceedings in the last five (5) years in which any proposed Subcontractor is or was a party, the proceedings involving

any of the issues listed above or in which any proposed Subcontractor filed for bankruptcy.

- .4 This Title 5 does not create, and shall not be interpreted as creating, any contractual relationship or privity of contract between the City and any Subcontractor. The acceptance or rejection of a proposed Subcontractor shall not create in that Subcontractor a right to any subcontract nor shall said acceptance or rejection relieve the Contractor of its responsibilities for the work of any Subcontractor.

TITLE 6 - TIME OF COMMENCEMENT AND COMPLETION

601 BEGINNING, PROGRESS AND TIME OF COMPLETION

A written Notice to Proceed will be issued by the Deputy Manager and the Contractor shall start the Work within ten (10) Days of the date of the Notice to Proceed. Thereafter, the Contractor shall prosecute the Work at such place or places as the Contract Documents require or as the Project Manager directs and shall fully complete the Work in every detail within the time limits set forth in the Contract Documents. The above mentioned ten (10) Days is included in the Contract Time.

602 LIQUIDATED DAMAGES; ADMINISTRATIVE COSTS; ACTUAL DAMAGES

- .1 Time is of the essence of the Contract. In the event the Contractor fails to achieve Substantial Completion of the Work within the Contract Time or fails to meet any other time requirement or the time limit set forth in the Contract, after due allowance for any extension or extensions of time made in accordance with the provisions herein set forth, the Contractor shall be liable to the City for liquidated damages, and not as a penalty, in the amount stipulated therefore in the Contract Form or in the Special Conditions. Such liquidated damages shall be assessed for each and every Day that the Contractor shall be in default, as established by said time limit or limits. The City shall have the right to deduct said liquidated damages from any amount due or that may become due the Contractor, or to collect such liquidated damages from the Contractor or its surety.
- .2 Liquidated damages in the amount stipulated do not include any sums of money to reimburse the City for actual damages which may be incurred between Substantial Completion and Final Completion because of the Contractor's failure to achieve Final Completion within the Contract Time. For such delay in Final Completion, the Contractor shall reimburse the City, as a mitigation of City damages and not as a penalty, those administrative costs incurred by the City as a result of such failure. Representative hourly rates for such administrative costs are set out in the Special Conditions. The Project Manager shall calculate the City's administrative costs based on such Special Conditions, as the same may be revised from time to time.
- .3 Liquidated damages in the amounts stipulated do not include any sums of money to reimburse the City for extra costs which the City may become obligated to pay on other contracts which were delayed or extended because of the Contractor's failure to complete the Work within the Contract Time. Should the City incur additional costs because of delays or extensions to other contracts resulting from the Contractor's failure of timely performance, the City will assess these extra costs against the Contractor, and these assessments will be in addition to the stipulated liquidated damages.
- .4 The City reserves all of its rights to actual damages from the Contractor for injury or loss suffered by the City from actions or omissions of the Contractor, including but not limited to any other breach or default of the Contract, outside of the scope of the above sections of GC 602.

603 DELAY DAMAGES

- .1 The Contractor agrees that delays resulting from any causes other than acts or omissions of the City, its employees, agents or officials shall be considered fully compensated by a time extension, pursuant to GC 1105, and agrees to make no claim for monetary damages for such delays. In no event shall the Contractor be entitled to recover any delay costs caused by the acts or omissions of the Contractor, its employees or agents.
- .2 If the Contractor's completion of the entire Contract is delayed due to actions within the control of the City, or due to the acts or omissions of persons authorized by the Manager to act on behalf of the City with regard to the Contract, and if such delay causes an increase in the Contractor's total cost of performance of the Work, and if the Contractor has given timely notice of such delay and provided adequate documentation of any changes in cost associated with such delay, then the Contractor shall be entitled to an equitable adjustment to the Contract. Such equitable adjustment shall consist of a fair and reasonable adjustment in the Contract Amount, an extension of the Contract Time, or both.
- .3 A delay in the completion of the entire Contract is a delay which is on the critical path of the Project and which cannot be re-sequenced so as to allow the Contractor to complete the Contract within the Contract Time.
- .4 If the Contractor believes that it has suffered delays in performing the Contract that are caused by acts or omissions of the City, the Contractor may submit a Contractor Change Request under GC 1103 and, if applicable, a claim under GC 1201. Failure of the Contractor to strictly comply with all requirements of GC 1103 (and, if applicable, GC 1201) shall constitute a waiver by the Contractor of any claim for additional compensation, extension of time, or damages resulting from such delays.

TITLE 7 - COOPERATION, COORDINATION AND RATE OF PROGRESS

701 COOPERATION WITH OTHER WORK FORCES

- .1 The Contractor must be prepared to accept the presence, on or adjacent to the construction site, of work forces of other contractors, subcontractors, tenants, government agencies and municipal, public service or utility systems. Should other work forces be required to engage in construction work on the site occupied by the Contractor, the Contractor's superintendent shall establish liaison with the supervisors of these other work forces and attempt to resolve conflicts arising out of such joint occupancy of the Work site. If it becomes impossible to proceed with the Work in a manner that permits all activities to progress at a reasonable pace, the Manager will select the course of action that appears to best serve the City. The Manager may stop or curtail the activities of any of the participants in the Work if it appears that such action is necessary. Should the decision of the Manager create a condition that prevents the Contractor from meeting the established schedule, the Contractor may request an adjustment to the Contract in accordance with Title 11.
- .2 The Contractor shall afford the City and other contractors reasonable and safe access to and across the Work site and reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work within or adjacent to the Work site, and shall connect and coordinate the Contractor's Work with their work as required by the Contract Documents. The City may also require that certain facilities and areas be used concurrently by the Contractor and other persons or entities.
- .3 If any part of the Contractor's Work depends for proper execution or results upon the work of the City or of any other contractor, or affects, or is affected by, the work of another contractor, the Contractor shall monitor and keep itself informed of the progress and details of such work of such other contractor or the City by attendance at job coordination meetings, observation of the Work site, and communication with other contractors. The Contractor shall promptly report in writing to the Project Manager any apparent discrepancies or defects in such other work that will or may render it unavailable or unsuitable for the Contractor to properly perform the Work. Failure by the Contractor to promptly report such discrepancies or defects shall constitute acceptance of the other work as fit, proper and ready for integration with the Contractor's Work, except for latent defects.
- .4 If the Contractor, through its acts or omissions, causes loss, damage or delay to the Work or other property, the Contractor shall, upon due notice, promptly use its best efforts to remedy such loss, damage or delay.
- .5 If the Contractor, through its acts or omissions, causes loss, damage or delay to the work or property of any other Contractors, Subcontractors, tenants, government agencies, and municipal, public service or utility systems, the Contractor shall, upon due notice, promptly use its best efforts to remedy such loss, damage or delay, or otherwise settle with such other person or entity by agreement or otherwise.

- .6 If the Contractor's Work is delayed by the acts or omissions of any other contractors, then a time extension may be granted pursuant to Title 11. No additional payment will be made to the Contractor by the City because of interference or delays caused by other contractors, where such delay is not caused by acts or omissions within the control of the City.

702 COORDINATION OF THE WORK

The Contractor shall coordinate its Work and the work of all Contractor Personnel, Suppliers, materialmen, and Subcontractors. Such coordination shall include the preparation of appropriate coordination drawings as the City may require from time to time.

703 COORDINATION OF PUBLIC CONTACT

- .1 The Contractor shall also coordinate and organize its Work so as to reasonably minimize the inconvenience to the general public, particularly occupants of property adjacent to the Project, resulting from the Work. Such coordination shall include meeting with or notification to the persons or citizens who will be affected by the Work, as appropriate, and shall be undertaken in cooperation with the Manager, and in accordance with any specific Contract provisions or direction from the Manager. The City expects and will demand that the Contractor enforce acceptable and appropriate conduct by all Contractor Personnel to enhance job and public safety and to present to the public the best possible image of City construction activities.
- .2 The Contractor shall obtain the approval of the Project Manager and notify all other affected persons or other contractors at least forty-eight (48) hours before starting work that may block access or otherwise cause undue difficulty to occupants or users of property affected, and shall restore such access to a usable condition or, with the Project Manager's permission, provide replacement access as soon as possible.
- .3 If the Contractor notifies the community, other contractors or the general public by written notice that utility shut offs, emergency road closures, or similar events will occur, a copy of such notices shall be provided to and approved by the Project Manager before such notices are sent.
- .4 The Contractor shall provide safe access to and through the Work site to accommodate City approved tours. When the City plans to conduct or authorize a site tour of the Project, the Project Manager will attempt to give the Contractor forty-eight (48) hours' advance notice and, if time is available, attempt to make necessary arrangements with the Contractor to facilitate the tour and mitigate disruptions to the Contractor's operations.
- .5 Without limiting the foregoing, any Contractor performing Work for the Aviation Department shall coordinate and organize its Work so as to avoid interference with the operational requirements of the City's Municipal Airport System.

704 RATE OF PROGRESS

- .1 If the Project Manager believes that the Work or any portion thereof is not progressing at a satisfactory rate or will not be completed in the allotted time due to any acts or omissions of the Contractor, the Project Manager may require the Contractor to provide a written plan and to undertake appropriate action to raise the rate of progress to an

acceptable level or to complete the Work as required. The Contractor shall remain solely liable for the means and methods utilized in such plan. The Contractor shall submit and implement such plan within the time established by the Project Manager at no cost to the City. The Contractor shall revise its plan if it is not acceptable to the Project Manager.

- .2 If the Deputy Manager determines that the Contractor has failed to raise the rate of progress to an acceptable level, has not provided an acceptable plan to raise the rate of progress or complete the Work in the allotted time, or has failed to implement reasonable efforts to mitigate or eliminate any delays, the Deputy Manager may direct a course of action that best serves the interests of the City. The Manager may elect, at his sole discretion and in the City's best interest, to authorize or require the Contractor to accelerate or decelerate the rate of progress of the Work. Such authorization or requirement shall not be considered valid or binding unless made in writing by the Manager. Changes to the Contract Time or Contract Amount, if any, shall be made and determined in accordance with Title 11. Should the City find it necessary to accelerate or decelerate any other contractor's work as a result of the acts or omissions of the Contractor, the Contractor shall be liable for all additional costs connected therewith in addition to any liquidated damages which may otherwise result from failure to complete the Work within the Contract Time. The City may deduct all such amounts from amounts otherwise payable to the Contractor under the Contract.

TITLE 8 - PROTECTION OF PERSONS AND PROPERTY

801 SAFETY OF PERSONS

- .1 The Contractor is responsible for the health and safety of each and every person on or at the Work site. The Contractor shall take all necessary and reasonable precautions and actions to protect all such persons from injury, death or loss. Such actions shall include, but are not limited to:
 - A. Compliance with all applicable City, state or federal laws, occupational health and safety laws, ordinances, rules and regulations, Executive Orders and other orders. The City shall have the right at any time to request a safety compliance review by the Occupational Safety and Health Administration (OSHA) of the Contractor's and its Subcontractor's and Supplier's safety policies, practices and procedures.
 - B. Preparation and implementation of a Contractor's safety program complying with all of the requirements stated above.
- .2 The Contractor shall employ at the Work site a responsible qualified person whose duties shall include the protection of persons and property and the administration of the Contractor's safety program. This person must have safety training, a working knowledge of the requirements stated in GC 801.1, and experience administering safety programs. The Contractor shall provide the Project Manager with this person's name prior to the start of construction.
- .3 This Title shall be interpreted in its broadest sense for the protection of persons and property, and no act or omission to act by the City, its officers, employees or agents, or by any Designer shall relieve the Contractor of any of its obligations and duties hereunder.
- .4 Prior to the start of construction, the Contractor shall provide the Project Manager with a statement signed by the Contractor's Superintendent that all Contractor Personnel have been or will be briefed on the Contractor's Safety Program prior to being allowed on the Work site.
- .5 The Contractor shall provide to the Project Manager a complete copy of any OSHA correspondence, report, warning, citation, directive or notice within twenty-four (24) hours after it is received. The Contractor shall also provide the Project Manager a copy of any Contractor reply to any OSHA correspondence, report, warning, citation, directive or notice. This submittal is for informational purposes only and shall not alter the Contractor's responsibilities for safety of the Work site.
- .6 The Contractor shall provide a copy of the Employer's First Report of Injury for any lost time accident or any injury that requires off-site medical treatment to the Project Manager within forty-eight (48) hours after the Contractor becomes aware of such accident or injury. This submittal is for informational purposes only and shall not alter the Contractor's responsibilities for safety of the Work site.

802 PROTECTIVE DEVICES AND SAFETY PRECAUTIONS

- .1 The Contractor shall provide all necessary protective devices and safety precautions. Such devices and precautions may include but are not limited to: posting of danger signs warning against hazards such as, but not limited to, hoists, well holes, elevator hatchways, scaffolding, openings, stairways, trip and fall hazards and falling materials; placement of warning flares; equipment back-up alarms; installation of barricades; promulgation and application of safety regulations and employment of safety personnel and guards. Signs will not be considered to be an adequate substitute for physical protective barriers. The costs of all protective devices and the planning and implementing of safety precautions are considered to be included in the Contract Amount.
- .2 If, in the opinion of the Deputy Manager, the Contractor has not supplied necessary and adequate barricades, warnings, or other safety devices, then the Deputy Manager may order additional devices and deduct the cost from the Contractor's payment. By taking such action, the City assumes no liability for the adequacy of such barricades, warnings or other safety devices.

803 PROTECTION OF PROPERTY AND WORK IN PROGRESS

- .1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage to, or loss of:
 - A. All or any part of the Work and all or any part of materials and equipment to be incorporated therein, whether in storage on or off the Work site, under the care, custody or control of the Contractor, its Subcontractors, manufacturers, materialmen or Suppliers of any tier;
 - B. Other property at the Work site or adjacent thereto, including trees, shrubs, lawns, irrigation systems, walks, pavements, roadways, structures, and utilities; and
 - C. The work of the City or other contractors; provided, however, that the Contractor shall not be responsible to furnish the direct protection of the work of the City or other contractors.
- .2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations, Executive Orders and lawful orders of any public authority bearing on the safety of property or its protection from damage or loss and further, shall cooperate and keep the City and other contractors informed of all of the Contractor's precautions for the protection of the Work.
- .3 The Contractor shall be solely responsible for the design, installation, maintenance, bracing, shoring, and securing of temporary structures required in the execution of the Work. The Contractor shall take all reasonable precautions to ensure that no part of any structure of any description is loaded beyond its carrying capacity with anything that will endanger its safety at any time during the execution of the Work and shall provide for the adequacy and safety of all scaffolding and hoisting equipment. The Contractor shall not permit open fires within any building enclosure. The Contractor shall construct and maintain all necessary temporary drainage and do all pumping reasonably required to keep excavations, floors, pits, and trenches free of water.

- .4 If any of the Contractor's operations destroy or damage any property, public or private, the Contractor shall promptly repair or replace such property at Contractor's cost, to the satisfaction of the Project Manager, before the City will accept or pay for the Work performed under the Contract. If the Contractor fails to repair or replace such property, the City, at the sole discretion of the Manager, may undertake such repair or replacement and deduct the cost of the same from amounts payable to the Contractor under the Contract.

804 PROTECTION OF MUNICIPAL, PUBLIC SERVICE OR PUBLIC UTILITY SYSTEMS

- .1 Before any Work is started, the Contractor shall communicate with all governmental agencies and private entities that have jurisdiction over municipal, other public service or other utility systems that might be affected by the Work and shall contact the appropriate utility locator service organization for the locating and marking of such municipal, other public service or other utility systems. The Contractor shall be responsible for all scheduling and coordination of Work with such systems and utilities. The City shall have no responsibilities or liabilities for delay or other impact to the Work caused by the acts or omissions of such other agencies or entities. After Work is begun, the Contractor shall perform in a manner designed to reduce to a minimum the potential for disrupting the operations of municipal, other public service or other utility systems. In particular, when a municipal, other public service or other utility system can be affected by Work performed by the Contractor, the Contractor is required to contact the agency or entity responsible for operation of that system for instructions on how best to proceed.
- .2 The list that follows is not intended to be complete and all inclusive, but merely to identify the systems that Contractors encounter most frequently. The names of listed organizations are subject to change from time to time:

SYSTEM	AGENCY TO CONTACT
Telephone	CenturyLink (or others, as applicable)
Roads	Transportation Division and Street Maintenance Division of the Department of Public Works
Public Transportation	Regional Transportation District and the Colorado Department of Transportation
Parks, Parkways and Medians	Denver Department of Parks and Recreation
Sanitary Sewer Collection	Wastewater Management Division of the Department of Public Works and the Denver Metropolitan Reclamation District
Storm Water Collection and	Wastewater Management Division of the Department of

Drainage Way	Public Works
Natural Gas, Steam, Electricity and Chilled Water Distribution	Public Service Company of Colorado d/b/a Xcel Energy
Water Distribution	Denver Board of Water Commissioners
Solid Waste Collection	Solid Waste Division of the Department of Public Works
Fire Alarm System	Denver Fire Department
Cable Television System	Comcast Corporation

805 PROTECTION OF STREET AND ROAD SYSTEM

- .1 The City's street and road system includes but is not limited to permanent or temporary highway, street, alley, bikeway, pedestrian pathway, bridge and other road or related structures.
- .2 Except in emergencies, closing or otherwise obstructing any portion of the street and road system will be permitted only after the City has authorized the Contractor to do so. Under Department of Public Works construction Contracts, this authorization is granted by the approval of an appropriate Traffic Maintenance Plan which has been prepared and submitted by the Contractor. Under Department of Aviation construction Contracts, this authorization is granted in writing by the Project Manager, after receipt of written notice from the Contractor at least forty-eight (48) hours before any road located within the City's Municipal Airport System shall be closed or otherwise obstructed by actions of the Contractor.
- .3 Should the Contractor do anything to impair or otherwise diminish the capabilities of any portion of the street and road system without an approved Traffic Maintenance Plan under a Department of Public Works Contract, or without first notifying the Project Manager under a Department of Aviation Contract, the City may withhold progress payments or suspend the Contractor's right to proceed with the Work. The Contractor shall be liable to the City for any costs associated with such unauthorized impairment to the street and road system.
- .4 The Contractor shall anticipate that any detours and provisions for temporary access to the Work site that are implied by the Technical Specifications or Special Conditions will be necessary and shall be presumed to have included the costs associated with such detours and provisions for temporary access in the original bid price.
- .5 Traffic control systems such as street signs, traffic signals, traffic lane markings, and any other equipment or facilities that aid in the control of traffic are important elements of the street and road system. These must be protected and the Contractor shall be liable for any damages to the system or any damages to persons and property that might result from

failures in the traffic control system that were caused by the Contractor's operations. The requirement that the Contractor notify any City agency or representative of activities that may have adverse affects on the street and road system does not relieve the Contractor of the responsibility for the protection of that system.

- .6 In addition, all signs, barricades, or other traffic control measures shall be in conformance with the requirements of the "Manual of Uniform Traffic Control Devices for Streets and Highways", US Department of Transportation, Federal Highway Administration, including State of Colorado supplements or as detailed in the Contract Documents.

806 PROTECTION OF DRAINAGE WAYS

- .1 The Contractor shall be responsible for the preservation and protection of storm water collection systems and drainage ways that may be affected by Work under the Contract. This municipal service system is operated by the Wastewater Management Division, and at Denver International Airport by the Department of Aviation. The Contractor shall notify the Project Manager and the Deputy Manager for the Wastewater Management Division, or the Deputy Manager of Aviation for Planning and Development as applicable, when its Work may diminish the system's capabilities or may redirect water flows. This notification process shall not, however, relieve the Contractor of the responsibility for damage to persons and property that may result from changes to that system caused by the Contractor's operations.
- .2 The Contractor shall not bypass untreated or partially treated waste waters or waste materials to surface waters, storm sewers, or other drainage courses. All bypassing or pumping of sanitary sewage required during construction shall be to other sanitary sewer facilities approved by the Deputy Manager of Public Works for the Wastewater Management Division, or the Deputy Manager of Aviation, Planning and Development, as applicable. All existing sewer facilities shall remain in continuous and full operation during construction. All costs incurred for bypassing or pumping of sewage flows during construction shall be borne by the Contractor unless specifically otherwise provided for in the Special Conditions or Technical Specifications.

807 PROTECTION OF THE ENVIRONMENT

- .1 The Contractor shall comply with all applicable federal, state and local environmental protection rules, laws and regulations and accept responsibility for compliance with all environmental quality standards, limitations and permit requirements promulgated thereunder, including but not limited to the City's noise control ordinance, federal and state air quality standards for fugitive dust control, prevention of surface and groundwater contamination, and hazardous and other waste disposal practices and procedures.
- .2 If the City, as owner, is determined by any federal, state or local government agency, department, board or commission, or in any judicial proceeding to have violated any such environmental protection rules, laws or regulations as a result of the Contractor's acts or omissions, the Contractor agrees to indemnify and hold harmless the City from any and all prosecutions, payment of any and all fines or penalties, and the cost of abatement and remediation, except that the Contractor shall not be required under this GC 807 to indemnify the City from any amounts which are attributable to the negligence of the City.

808 HAZARDOUS AND EXPLOSIVE MATERIALS OR SUBSTANCES

- .1 In the event the Contractor encounters or discovers any hazardous materials or substances during its performance of the Work, it shall immediately take reasonable precautions concerning such hazardous material or substances and notify the Project Manager verbally and in writing of the existence of such materials or substances immediately upon discovery.
- .2 The Contractor shall exercise the utmost care and caution if the storage or use of hazardous materials or substances or explosives are required for the performance of the Work. Activities related to the purchase, storage, handling, use, removal, treatment, or disposal of such hazardous materials or substances or explosives shall at all times be the sole responsibility of the Contractor and shall be supervised and carried out by personnel properly qualified to perform such activities. However, under no circumstances shall activities requiring the purchase, storage, handling, use, removal, treatment or disposal of hazardous materials or substances or explosives be initiated without first notifying the Project Manager in writing of the proposed activity and receiving the Project Manager's written approval of such activity. The use, handling and storage of explosives will not be allowed on site unless they are required or explicitly permitted by the Technical Specifications.

809 ARCHEOLOGICAL AND HISTORICAL DISCOVERIES

- .1 The Contractor is required to inform the Project Manager immediately upon discovery of any evidence that might suggest to a lay person that archaeological or historical materials or human remains may be present in the Work area. Upon making such a discovery, the Contractor shall do whatever is necessary to avoid disturbing that Work area or any such materials or remains. This may require that the Contractor's activities be redirected or stopped until the Deputy Manager determines how to proceed.
- .2 If as a result of the Contractor's efforts to preserve the potential discovery site, the Contractor's activities are delayed for longer than twenty-four (24) hours, the Contractor may submit a Contractor Change Request if it believes it is entitled to an adjustment in Contract Amount and/or Contract Time. Adjustments for such delay shall be considered by the City only for that portion of the delay which exceeds twenty-four (24) hours.

TITLE 9 - COMPENSATION

901 CONSIDERATION (CITY'S PROMISE TO PAY)

- .1 In consideration of the Contractor's promise of performance as detailed in the Contract Documents, the City promises to pay the amounts due the Contractor in accordance with the provisions of the Contract Documents.
- .2 The City's promise to pay for the Work that the Contractor promises to perform is limited by the City's Charter and its Ordinances. A 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 the Contract, encumbered for the purpose of the Contract and paid into the Treasury of the City or otherwise lawfully made available by the City. Unless authorized by law, (i) the City does not by this Contract irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Contract is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City. Other limitations are found in the law that the Contractor is presumed to know. Three such limitations on payment are listed below:
 - A. Under no circumstances will the City be liable for any extra Work that has not been authorized by a properly executed Change Order, Change Directive or Field Order.
 - B. No Change Order, Field Order, Change Directive or other form of directive to the Contractor shall be issued, and no such order or directive shall be binding if issued, if: (i) it would directly cause the aggregate amount payable under the Contract to exceed the amount appropriated or otherwise lawfully made available for the Contract, or (ii) it would require the Contractor to perform additional compensable work which would cause the aggregate amount payable to exceed such appropriated or provided amount.
 - C. It shall be the Contractor's responsibility to verify that the amounts already appropriated or otherwise made available for the Contract are sufficient to cover the entire costs of the Work. Any work undertaken or performed in excess of the amount appropriated or otherwise made available is undertaken or performed in violation of the terms of the Contract, without the proper authorization, and at the Contractor's own risk.
- .3 Any limitations on the sources of funding for payments made under the Contract are stated in the Contract Form.

902 PAYMENT PROCEDURE

- .1 Payment to the Contractor shall occur as set out in this GC 902 if the proper payment procedure is followed.
- .2 The Contractor shall submit a complete application for payment on the day of each month designated in writing by the Project Manager. The application for payment shall be submitted on the form and in the format required by the Project Manager. Applications

for payment shall be based on the Contract Unit Prices or the approved Schedule of Values described in GC 903.1.

- .3 The complete application for payment shall be submitted in accordance with the Special Conditions. The responsible party(s) identified in such Special Conditions (Project Manager and/or Designer) will review the application and either recommend to the Deputy Manager such amounts as reasonably determined are due or notify the Contractor in writing of the reasons for withholding approval. The application for payment, when recommended by the responsible party(s) identified in the Special Conditions and signed by the appropriate City Officials, establishes the total amount due the Contractor under a particular pay application. From this amount the sums already paid and the sums to be withheld are deducted. This application is then forwarded to the Manager of Finance for payment. The Manager of Finance will pay the Contractor upon approval of the payment application and all certified payrolls.
- .4 All applications for progress payments, except the final application, shall be subject to correction on subsequent applications, following the discovery of error.

903 SCHEDULE OF VALUES IN LUMP SUM CONTRACTS

- .1 The Contractor shall furnish to the Project Manager, for review and approval, a Schedule of Values, in such detail as the Project Manager shall request, no later than thirty (30) Days prior to the issuance of the first pay application. The Schedule of Values shall show the amount included for each principal category of work and shall be in proper balance. Unit price items in the Schedule of Values shall be consistent with any bid item listing contained in the Bid Form. No pay application shall be submitted until the submitted Schedule of Values is approved in writing by the Project Manager.
- .2 Should the City issue a Change Order that decreases or increases the Contract Amount, the Schedule of Values shall be modified to reflect the amount of such decrease or increase and resubmitted to the Project Manager at least fifteen (15) Days prior to the pay application reflecting such increase or decrease.

904 UNIT PRICE CONTRACTS

If payment for the major part of the Work performed under the Contract is based on specially identified units of construction rather than on a lump sum price, the Contract will be known as a Unit Price Contract. In a Unit Price Contract, the number of units set forth in the proposal may vary from the number of units actually measured when the Work has been completed. Should the measured number of units of any one unit designation vary by more than twenty-five percent (25%) from the number originally stated in the proposal for that designation, and should this difference in number of measured units change the total Contract value as originally bid by more than five percent (5%), the Contractor or the City may request that the unit price of that particular unit designation be renegotiated. Any change in a unit price resulting from such negotiation shall be binding only upon the full execution of a formal Change Order, reflecting such change.

905 PROGRESS PERIOD

The starting and completion dates for each progress period may be determined by the Project Manager after discussion with the Contractor at the time of the Pre-Construction Conference.

Unless otherwise specified by the Project Manager, each progress period shall be thirty (30) Days in duration.

906 APPLICATIONS FOR PAYMENT

- .1 As soon as practicable before the day of the month designated by the Project Manager for submittal of pay applications, the Project Manager and the Contractor will estimate the dollar value of Work completed during the previous progress period.
- .2 Each progress payment application shall show the estimated quantities or unit prices for all items listed in the Schedule of Values or the unit bid proposals. Each item shall include its proportionate share of overhead, profit, and all other associated expenses. For Unit Price Contracts, the quantities and unit prices shall be extended to show the total amount of each item of Work during the previous progress period and the summation of these amounts shall be the basis for the progress payment. For Lump Sum Contracts, Lump Sum pay items shall be broken down in accordance with the approved Schedule of Values.
- .3 The approved invoice value of materials and equipment delivered to the Work site but not yet incorporated into the Work or properly secured in a bonded and insured off-site location, if verified by the Project Manager, may be, at the sole discretion of the Deputy Manager, included in a progress payment. Evidence of such bonding and insurance shall be submitted by the Contractor before any such payment may be made. Such materials and equipment shall be separately identified in measurable units. Although the City may pay for such materials and equipment, the Contractor shall be solely responsible for the care of such materials and equipment, for replacing at no cost to the City any such materials or equipment that may be damaged, stolen or lost, and for incorporating such materials into the Work.
 - A. If the Contractor fails to maintain adequate protection from the elements or other adverse conditions, the Project Manager may at any time withdraw payment for such inadequately protected materials and equipment.
 - B. Materials or equipment for which the Contractor is requesting payment must be fully fabricated and complete units ready to be incorporated into the Work with no other fabrication required. The City will not pay for raw materials delivered to a fabricator's shop facilities.
- .4 Each progress payment application shall show each Subcontractor or Supplier participating in the Work completed during the previous progress period and the dollar amount of such participation. If the Contractor disputes a Subcontractor's or Supplier's entitlement to a portion of the previous progress payment, the Contractor shall submit to the City duplicate sets of a copy of a written communication from the Contractor to such Subcontractor or Supplier explaining the Contractor's determination not to render payment to such Subcontractor or Supplier, together with proof of service of such written communication upon such Subcontractor or Supplier.
- .5 The application for payment shall be signed. Such signed application for payment shall constitute a representation by the Contractor to the City that the Work has progressed to the point indicated; that the Work covered by the estimate is in accordance with the

Contract Documents; that the money received as a result of the application will be used to discharge the Contractor's obligations under the Contract and that the Contractor is entitled to payment in the amount requested. The Project Manager or the Designer, as appropriate, must also verify and certify the estimate of Work completed prior to any acceptance by the City.

- .6 By submitting an application for payment, the Contractor warrants that: (i) the title to the Work covered by the estimate of Work completed will pass to the City by incorporation into the completed Work; (ii) the Work covered by previous estimates of Work completed is free and clear of liens, claims, security interests or encumbrances, except for any interest created by retainage; and (iii) no Work covered by the estimate of Work completed is subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or any other person or entity.
- .7 The Contractor shall not include in its application for payment any billing for defective Work or for work performed by Subcontractors or Suppliers if it does not intend to pay the Subcontractors or Suppliers for such work.
- .8 Approval of an application for payment of Work completed or actual payment by the City shall not foreclose the right of the City to examine the books and records of the Contractor to determine the correctness and accuracy of any item.

907 RELEASES AND CONTRACTORS CERTIFICATIONS OF PAYMENT

Beginning with the second application for payment, each application shall be accompanied by partial claim releases from all Subcontractors and Suppliers or, at the Deputy Manager's sole discretion, a Contractor's Certification of Payment completed by the Contractor for the previous month's payment, all in a form and format acceptable to the Project Manager. At a minimum, the application shall specifically identify those Subcontractors or Suppliers that participated in the Work completed during the previous progress period and set forth the dollar amount of such participation. The Deputy Manager in his or her sole discretion may waive requirements for partial claim releases.

908 RETAINAGE

- .1 The City shall deduct and retain a total of five percent (5%) from the total amount of approved applications for payment, including Change Orders. The City may also deduct in addition to retainage as stated above, the additional amount(s) of any and all outstanding claims pursuant to CRS §38-26-107 from each approved application for payment.
- .2 After ninety-five percent (95%) of the Work under a Department of Public Works construction Contract has been satisfactorily accomplished by the Contractor, the Manager of Public Works, in his sole discretion, may decrease the retained amount to a level that is no less than twice the value of the estimate of remaining Work. This GC 908.2 shall not apply to Department of Aviation construction Contracts.
- .3 Execution of the Contract by the Contractor shall constitute a waiver by the Contractor to claim any right of payment of interest upon any such retained funds, or to claim any right of payment of interest upon funds withheld under the provisions of CRS §38-26-107.

- .4 Substitution of securities in lieu of retainage, pursuant to CRS §24-91-101, et seq, is authorized for Contracts let through the Department of Public Works, but may not be for Contracts let through the Department of Aviation. Should the Contractor desire to substitute securities in lieu of retainage, specific provisions must be made through and accepted by the Manager and the City Attorney.

909 ADDITIONAL WITHHOLDING OF PROGRESS PAYMENTS

- .1 The City may, at any time, and at its sole discretion, withhold sums from progress payments due the Contractor in addition to the amounts withheld under GC 908. Such additional withholding may be made for any of the following reasons:
- A. Failure to repair, replace or remove defective Work.
 - B. Subcontractor or Supplier claims against the Contractor.
 - C. Failure to make payments to Subcontractors, or for labor, materials or equipment.
 - D. Failure to obtain or comply with necessary permits and licenses or to comply with applicable laws, ordinances, codes, rules and regulations or Executive Orders.
 - E. Failure to pay prevailing wages or failure to make the required reports.
 - F. Failure to comply with affirmative action, equal employment opportunity, or Small Business Enterprise, Minority Business Enterprise, Woman Business Enterprise, or Disadvantaged Business Enterprise requirements set forth in the Contract.
 - G. Failure to keep its Work progressing in accordance with the construction schedule.
 - H. Failure to maintain contract documentation including, but not limited to, updated schedules and record drawings, as required by the Contract Documents.
 - I. Failure to perform the Work in accordance with the Contract Documents.
 - J. Failure to maintain a clean and orderly Work site.
 - K. Failure to satisfactorily replace and or repair City property or the property of others destroyed or damaged during the progress of the Work.
 - L. Acts or omissions that have delayed the performance of another contractor which form the basis of a request that the City pay additional compensation to the other contractor.
 - M. Failure to maintain a safe Work site.
 - N. Impairment of the capacity or use of, or damage to, any road, street, public facility or other public property.
 - O. Failure of the Contractor to allow the City to inspect the Work as required or requested by the City.
 - P. Acts or omissions that have delayed the performance of work by other City Agencies.

- Q. Failure to pay City personal property, sales, use, occupational privilege, or other applicable taxes when due.
 - R. Failure to protect the City's interests.
- .2 Whenever the reasons for such withholding are removed, the City will make payment of the sums withheld with the next regularly scheduled progress payment.

910 FINAL ESTIMATE AND PAYMENT

After the Work has been accepted, the Project Manager, Designer or Contractor, as appropriate, will prepare a final estimate of the total value of all Work performed under the Contract. This will include all extra Work properly authorized and performed. All prior estimates and payments shall be subject to correction in the final estimate and payment; but in the absence of error or fraud, it shall be understood that all estimates, when approved by the Manager, shall be conclusive evidence of the Work performed and materials furnished. At the time of settlement, there shall be deducted from the final estimate (i) all previous payments made to the Contractor under the Contract, (ii) all amounts chargeable to the Contractor, (iii) all liquidated damages due the City; (iv) all unpaid personal property tax, sales tax, use tax, and occupational privilege tax due the City; and (v) all damages and all other costs, expenses and charges properly chargeable to the Contractor under the terms of the Contract. Final settlement shall be made in accordance with Title 20.

911 ACCOUNTING OF COSTS AND AUDIT

- .1 The Contractor shall keep and maintain and shall cause its Subcontractors, Suppliers and outside consultants to keep and maintain books, records, accounts and other documents (hereinafter collectively referred to as "records") that are sufficient to accurately and completely reflect all costs incurred pursuant to the Contract that may be the basis of a Contractor Change Request or a claim by the Contractor. Such records may include the bid estimate, receipts, memoranda, vouchers, and accounts of every kind and nature pertaining to the performance of the Work including but not limited to job cost ledgers, invoices from and payments to Subcontractors, Suppliers and materialmen, and records of home and field office overhead, as well as complete summaries and reports setting forth all reimbursable man hours expended and payroll records. All such records must be kept for six (6) years from the date of Final Completion or termination of Contract, in a form and manner satisfactory to the City, and in accordance with a system of accounting acceptable to the Manager.
- .2 The City, its Auditor, its representatives, funding agencies and any firm of auditors retained by the City, shall have access within the Denver-Boulder MSA area, upon advance notice in writing, to all the Work related records maintained by the Contractor and its Subcontractors, Suppliers and consultants, for the purpose of auditing and verifying the Contractor's costs or any other costs claimed to be due and payable hereunder. The City shall have the right to reproduce any such records, and the Contractor and its Subcontractors, Suppliers and consultants shall keep and preserve all such records for a period of at least six (6) years from and after Final Acceptance or termination of the Contract, whichever is first.

- .3 The Contractor shall include in all subcontracts, consulting agreements and any other agreements entered into by the Contractor pursuant to the performance of the Work, a provision to the effect that its Subcontractors, Suppliers, consultants or other parties shall observe and comply with all the obligations of the Contractor under this GC 911 in the same manner and to the same extent as the Contractor.
- .4 This GC 911 shall not limit the City Auditor's right to audit the records of the Contractor, Subcontractor or Supplier for compliance with the requirements of these General Conditions.

TITLE 10 - WAGES

1001 PREVAILING WAGE ORDINANCE

The Contractor shall fully familiarize itself and comply with DRMC §20-76, et seq, Payment of Prevailing Wages.

1002 POSTING OF THE APPLICABLE WAGE RATES

The Contractor shall post in a prominent and easily accessible place at the Work site the “Auditor’s Notice to Employees” and the schedule of wage rates to be paid by the Contractor and all Subcontractors working under the Contractor.

1003 RATE AND FREQUENCY OF WAGES PAID

- .1 The applicable Prevailing Wage Rate Schedule is set forth separately elsewhere in the Contract Documents. However, the Contractor is responsible for being familiar with and paying in accordance with the rates and classifications established pursuant to DRMC §20-76 which may be necessary to complete the Work, whether or not specifically bound herein.
- .2 Weekly, the Contractor and all of its Subcontractors shall pay all workers, mechanics, and laborers according to the rates and classifications established in the Contract Documents. Increases in prevailing wages subsequent to the date of the Contract for a period not to exceed one (1) year shall not be mandatory on either the Contractor or Subcontractors. Future increases in prevailing wages on a Contract whose Contract Time exceeds one (1) year shall be mandatory for the Contractor and Subcontractors as of the yearly anniversary date of the Contract. In no event shall any increases in prevailing wages over the amounts as stated in the Contract Documents result in any increased liability on the part of the City, and the possibility and risk of any such increase is assumed by the Contractor. Decreases in prevailing wages subsequent to the date of the Contract for a period not to exceed one (1) year shall not be permitted. Decreases in prevailing wages on a Contract whose Contract Time exceeds one (1) year shall not be effective except on or after the yearly anniversary date of the Contract.

1004 REPORTING WAGES PAID

- .1 The Contractor and its Subcontractors who are performing work that is covered by DRMC §20-76 or other controlling law shall furnish to the City, for each week during which workers are employed under the Contract, copies of the payroll records of all such workers. These payroll records shall contain information showing the name, social security number, and wage classification of each worker, the number of hours worked by each worker, the hourly rate of pay of each worker, the shift(s) and hours worked, the check number of funds paid for each worker, the itemized deductions made from the pay of each worker, and the gross and net amount of pay received by each worker for the week. Upon request, the Contractor shall provide other documentation deemed necessary by the City. All copies of the payroll records shall be accompanied by sworn statements

of the Contractor and Subcontractors that: the copies are true and correct and are the payroll records of all mechanics, workers, and laborers employed under the Contract; the payments were made to the workers as stated in the payroll records; and no deductions were made other than those set forth in the payroll records.

- .2 The original of these payroll records shall be transmitted to the City Auditor. If required by the City Auditor, the Contractor will submit certified payroll information electronically on a system specified by the Auditor at no cost to the City.

1005 FAILURE TO PAY PREVAILING WAGES

- .1 No request for payment under the Contract will be approved unless the party presenting such pay request, or in whose behalf it is presented, has filed the reports and statements described in this Title, or while any such Contractor or any Subcontractor under it shall be in default in the payment of such wages as are required by these Contract Documents.
- .2 If any laborer, mechanic, or worker employed by the Contractor or any Subcontractor to perform work under the Contract has been or is being paid less than the rate of wages required by the applicable Prevailing Wage Rate Schedule, the Manager may 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 said wages. In the event of termination, the City may prosecute the Work to completion by contract or otherwise, and the Contractor and its sureties shall be liable to the City for any additional costs to the City. In addition, the Contractor may be subject to sanctions, penalties, or debarment under D.R.M.C. §20-77.

TITLE 11 - CHANGES IN THE WORK, CONTRACT PRICE OR CONTRACT TIME

1101 CHANGE ORDER

- .1 A Change Order is a written instrument signed by the Manager, other designated parties, and the Contractor, that contains their agreement upon all of the following matters:
 - A. The change(s), addition(s) or deletion(s) to the Work;
 - B. The amount of the adjustment in the Contract Amount, if any; and
 - C. The extent of the adjustment in the Contract Time or Period of Performance, if any.
- .2 No change of Contract Time or Contract Amount, or any other change to the Contract, shall be binding until the Contract is modified by a fully executed Change Order.

1102 CITY INITIATED CHANGES

- .1 General: The City may, without notification to any Contract surety, require the Contractor to perform additive or deductive changes to the Work without invalidating the Contract or the surety bond. All changes shall be accomplished by either a written Change Order or a written Field Order/Change Directive. If a Field Order/Change Directive is used, a Change Order will be executed when the terms of the change are agreed upon.
- .2 Change Request: When the City desires to initiate a change, the Project Manager will issue a Change Request informing the Contractor of the proposed change in the Work, and requesting the Contractor's detailed price proposal for such change. The Contractor, at no expense to the City and within the time period specified in the Change Request, shall provide the Project Manager with a complete and itemized proposal for the change in the Work, which shall include the estimated increase or decrease in the Contract Amount and/or increase or decrease in the Contract Time. Such increase or decrease shall be based on the criteria and methods described in GC 1104 and 1105. The Contractor shall be responsible for any delays in the Work and any additional costs to the City caused by its failure to submit a complete price proposal within the time provided. The Contractor shall participate with the City in prompt joint analysis and negotiations to finalize a Change Order. The issuance of a Change Request by the City is not a prerequisite to the issuance of a Field Order/Change Directive.
- .3 Field Order/Change Directive: A Field Order/Change Directive is a written order, signed by the Manager or his designated representative, which directs the Contractor to commence a change in the Work prior to complete agreement on or execution of a Change Order. A Field Order/Change Directive may be used when:
 - A. The City determines that the Contractor must proceed immediately to perform a change in the Work in order to avoid an adverse impact on the schedule or other work, or to avoid or correct a situation where the health or safety of persons may be affected, and sufficient time is not available to negotiate a Change Order; or

- B. The City and Contractor have not completed their negotiation and reached agreement on all of the terms of a Change Order, but the City requires the Contractor to proceed without such agreement.
- .4 Contractor's Duties: Upon receipt of a Field Order/Change Directive, the Contractor shall promptly sign the Field Order/Change Directive and return it to the Project Manager, and shall promptly proceed with performing the change in the Work. The Contractor, within twenty (20) Days after receiving the Field Order/Change Directive, shall provide the Project Manager with a complete and itemized proposal that includes the estimated increase or decrease in the Contract Amount and/or Contract Time attributable to the planned changes based on the criteria and methods described in GC 1104 and 1105. The Contractor shall be responsible for delays to the Work and any additional costs incurred by the City caused by its failure to submit complete pricing information within the time provided above.
- .5 Time and Materials:
- A. If the maximum cost of the change in the Work to be performed under a Field Order/Change Directive has not been agreed upon and reduced to writing in the actual Field Order/Change Directive, or if such change is not fully described under a unit price set forth in the Contract Documents or the Field Order/Change Directive, the Contractor shall proceed with such Work on a Time and Materials basis.
- B. Whenever Work is performed on a Time and Materials basis, the Contractor shall fully document all costs associated with such Work. Beginning with the first Day such Work is performed, and on a daily basis thereafter, the Contractor shall submit to the Project Manager a daily itemization of all such costs in such form as the Project Manager may require.
- C. The final Contract adjustment for Field Order/Change Directive changes in the Work performed on a Time and Materials basis shall be calculated in accordance with GC 1104.2.
- .6 Change Order to Be Executed: When the City and the Contractor reach agreement on an adjustment to the Contract Amount and/or Contract Time, such agreement shall be promptly executed as a Change Order. If the City requires Contractor to perform additional compensable work under a Field Order/Change Directive prior to executing a Change Order, Contractor shall submit its costs to perform the work as periodically completed in its monthly application for payment, and City shall reimburse such costs, subject to retainage and any applicable withholding. In no instance shall the City be required to periodically reimburse Contractor for such additional compensable work prior to Contractor submitting to City an estimate of the cost of the additional compensable work to be performed.

1103 CONTRACTOR CHANGE REQUEST

- .1 General:
- A. If the Contractor: (i) receives any instructions, interpretations or directives which it believes are at variance with the Contract Documents or would require the

Contractor to accelerate or decelerate the Work; or (ii) identifies what it believes are errors or omissions of any kind, including design errors or omissions, in the Contract Drawings or Technical Specifications; or (iii) encounters a differing site condition; or (iv) is delayed in performing the Work; or (v) becomes aware of any other matter or circumstance that the Contractor believes might require a change in the Contract Documents, Contract Time, or Contract Amount, the Contractor shall give the Project Manager prompt written notice of such matter and request a Change Order in a document identified as a "Contractor Change Request."

- B. Following submission of a Contractor Change Request, the Contractor shall diligently continue performance of the Contract to the maximum extent possible.
- C. All Contractor Change Requests shall be dated, numbered sequentially, and shall describe the action or event that the Contractor believes may require the issuance of a Change Order. The Contractor shall also provide a description of possible Contractor actions or solutions to minimize the cost of the Contractor Change Request and, when possible, provide an estimate of the adjustment in the Contract Time and Contract Amount which it believes is appropriate.

.2 Time Requirements:

- A. With respect to orders, instructions, directives, interpretations, determinations, or the discovery of any errors or omissions in the Contract Documents, a Contractor Change Request shall be submitted before the Contractor acts on them, but in no event more than five (5) Days after they were reasonably received or discovered.
- B. With respect to any differing site conditions, a Contractor Change Request shall be submitted before the conditions are disturbed, but in no event more than five (5) Days after the conditions are reasonably first discovered.
- C. With respect to delays, as set out below, a Contractor Change Request shall be submitted as soon as the Contractor reasonably has knowledge of the delay, but in no event more than five (5) Days therefrom.
- D. With respect to any other matter or circumstance that the Contractor believes would require a Change, a Contractor Change Request shall be submitted as soon as the Contractor reasonably has knowledge of the matter or circumstance, but in no event more than five (5) Days after the Contractor becomes aware of such circumstance or matter.

.3 Submittal Requirements and Waiver of Claims:

- A. If the Contractor does not submit a Contractor Change Request within the time required by GC 1103.2 above, any action by the Contractor related to such order, direction, instruction, interpretation, determination, design error or omission, or other matter, including delays or differing site conditions, will not be considered by the City as a change to the Work and the Contractor waives any claim for an adjustment on the Contract Amount or the Contract Time.
- B. The Contractor shall, within ten (10) Days after submitting a Contractor Change Request, provide the Project Manager with a complete and itemized proposal that

sets out as specifically as practicable the requested adjustments to Contract Amount, Contract Time or other Contract provisions, and that contains the other information described in GC 1103 through 1105. The proposal shall also contain a detailed explanation, citing all applicable provisions in the Contract Documents, which supports the Contractor Change Request. If the Contractor does not submit its itemized proposal for a Change Order within the time described above or within such extension which the Project Manager, in his discretion may have granted in writing, the Contractor waives any claim for an adjustment in the Contract Amount or Contract Time arising out of the act or event giving rise to or necessitating a Contractor Change Request.

- C. The Contractor shall furnish, upon request, all additional information and data that the Project Manager determines is needed to assist the City in evaluating and resolving the Contractor Change Request through negotiation. The Contractor shall give the City access to its books, correspondence, records, electronic data bases and files, and other materials relating to the work described in the Contractor Change Request, shall require its Subcontractors and Suppliers to provide the City with such access, and shall make its Personnel and that of its Subcontractors and Suppliers available to discuss and answer cost, schedule, and other questions related to such request. Clear and legible copies of all necessary supporting records shall be provided to the City at no cost. Failure to submit requested information may be a basis for denial of the request.

.4 Specific Provisions for Delay-Based Contractor Change Request

- A. If the Contractor Change Request is based in whole or in part on a delay of any kind or nature, the complete itemized proposal shall include the following information in addition to all other required information:
 - (1) The date, nature and circumstances of each event regarded as a cause of the delay;
 - (2) The names of all individuals acting on behalf of the City who are known or believed by the Contractor to have direct knowledge of the delay;
 - (3) If the Contractor claims acceleration costs of scheduled performance or delivery, the basis upon which acceleration arose;
 - (4) The identification of any documents and the substance of any oral communications known to the Contractor which substantiate, refute or concern such delay;
 - (5) A Critical Path Method (CPM) schedule corrected to reflect actual performance, showing delay impacts as separate tasks and Contractor's mitigation of such impacts; and
 - (6) The specific elements of Contract performance for which the Contractor may seek an equitable adjustment, including: (a) Identification of each Contract or schedule line item that has been or may be affected by such delay; (b) To the extent practicable, identification of the delay and disruption in the manner and sequence of performance, and the effect on

continued performance, that have been or may be caused by such delay; (c) Identification of labor, materials, or both, or other cost items including overhead and Subcontractor costs, that have been or may be added, deleted or wasted by such delay, and a statement that the Contractor is maintaining records by some generally accepted accounting procedure that allows the separately identifiable direct costs due to the delay, and those not incurred as a result of the delay, to be readily identified and segregated; and (d) Estimates of the necessary adjustments to Contract Amount, Contract Time and any other Contract provisions affected by the delay.

B. Any legal or administrative proceeding to review the awarding of the Contract to the Contractor, or to review the awarding of any other contract to any other contractor if the Contract is part of a City Project consisting of multiple City Contracts, shall not be considered a delay caused in whole or in part by the City or an act or omission within the control of the City or anyone acting on behalf of the City.

.5 Determination by Project Manager: The Project Manager shall respond in writing to any timely Contractor Change Request within ten (10) Days of receipt of the complete and itemized proposal in support of the request. Failure of the Project Manager to respond within such time period shall be deemed a denial of the Contractor Change Request. If a Contractor Change Request is denied by the Project Manager, in whole or in part, any claim for an increase in the Contract Amount or Contract Time arising out of the act or event described in the Contractor Change Request is waived unless the Contractor timely complies with the provisions of GC 1201 (Notice of Intent to Claim).

1104 ADJUSTMENT TO CONTRACT AMOUNT

.1 Contract Amount Adjustments: All adjustments to the Contract Amount shall be determined by using one or more of the following methods:

A. A negotiated lump sum. If requested by the City, the Contractor shall promptly provide itemized and sufficient substantiating data, including calculations, measurements, cost records, production rates, equipment types and capacity, labor costs by craft and other information that the City may reasonably require the Contractor to produce in order to permit the City to evaluate any lump sum Contractor Change Request. In pricing such proposals, the Contractor shall include estimates of the type of costs described in GC 1104.2;

B. Unit prices (as stated in the Contract Documents or subsequently agreed upon) multiplied by final verified quantities of work performed;

C. Costs as determined in a manner previously agreed upon by the parties, which include markups, that do not exceed those set forth in GC 1104.2 below; or

D. Time and Material costs as determined in the manner described in GC 1104.2, Calculation of the Contract Adjustment. These amounts may be reduced where necessary to take into account the cost of Base Contract Work, Work included in approved Change Orders, Work described in other Field Order/Change

Directives, idle time for workers and/or equipment when Work could have been performed in other locations or when the number of workers or amount of equipment provided exceeded the number or amount required to perform the Work, unsatisfactory Work, or Work that may be or was performed concurrently with the changed Work and which cannot be easily segregated from the changed Work.

- .2 Calculation of the Contract Adjustment: In no event shall the charge or credit to the City associated with any change exceed the sum of the following:
- A. Direct Labor. The actual net, direct increase or decrease in the cost of the Contractor's labor. Such cost shall include only the cost associated with the workers who actually perform the changed Work. The cost of supervision, management and field or office overhead shall not be included or calculated as a direct labor cost. For shop work, the direct labor cost shall include only those workers who work directly on the item being manufactured or the actual operators of the equipment being used to handle the items being manufactured.
 - B. Labor Burden. Contractor's actual costs for worker's compensation and liability insurance, payroll taxes, social security and employees' fringe benefits (including employer paid health insurance) imposed on the basis of payrolls. This burden must reflect the variability of some burdens, i.e., social security. The burden shall be itemized and include all small tools and miscellaneous supplies. The total labor burden for such small tools shall not exceed two percent (2%) of the Direct Labor cost.
 - C. Direct Material, Supplies, Installed Equipment. The actual net, direct cost of materials, supplies and equipment incorporated into or consumed by the Work. If actual costs are not available, this cost shall be the lowest commercially available price including all discounts and rebates and all applicable taxes. Such cost shall be based on buying the material, supplies and equipment in the largest practical quantity to receive quantity discounts.
 - D. Equipment Costs. Without markup or operator, the lesser of (i) the actual net cost to the Contractor of owned or rented equipment, other than small tools; or (ii) the rental rate for such equipment as determined by using the following method(s):
 - (1) Equipment rental rates listed in the appropriate rental rate book currently in use by the Colorado Department of Transportation. If an item of equipment does not appear in the rental rate book currently in use by the Colorado Department of Transportation, the rental rates published by the Associated Equipment Dealers may be used as a basis for negotiating a rental rate for a particular piece of equipment. The Contractor shall provide all information necessary to determine the appropriate rental rate at the time the equipment is brought on the job. This shall include, but not be limited to, type, description, make, year, model, series, serial number, fuel type, transmission, wheel combination, GVW, capacity and equipment owner.

- (2) Rental equipment costs shall be determined using actual invoiced rates, less all discounts for basic equipment rental.
- (3) Mobilization/demobilization costs will be paid if the equipment is mobilized exclusively for Work described in a Change Order. If the equipment is also used on Base Contract Work, no mobilization or demobilization cost will be paid. Mobilization/demobilization costs will be based on using the least expensive means to mobilize or demobilize. Equipment shall be obtained from the nearest available source. When the least expensive methods are used, the costs shown in the actual invoice will be the basis for pricing.

E. Mark Up For Overhead And Profit.

- (1) The Contractor or Subcontractor of any tier who actually performs the Work shall be entitled to a markup of twelve percent (12 %) on the actual costs for items A through D in GC 1104.2 above. Bonds and insurance are compensated at direct cost without markup.
- (2) A supervising Subcontractor (if any) shall be entitled to a three percent (3%) markup on the actual price charged to the Subcontractor by a Subcontractor of lower tier.
- (3) The Contractor shall be entitled to a three percent (3%) markup on the actual price for the Subcontractor's work.
- (4) All of the Contractor's and Subcontractor's field and office overhead and supervision costs are included in the markups listed above.
- (5) Neither the Contractor nor Subcontractor of any tier, nor the City in the case of a credit, will apply or attempt to apply these percentage adjustments in a way that would pyramid either the cost or credit because of the involvement of a Subcontractor or sub-subcontractor. Written justification and approval shall be required for any percentages exceeding a total of fifteen percent (15%).

F. Bonds, Insurance, Permits And Taxes. The actual increases or decreases in the cost of premiums for bonds and insurance, permit fees, and sales, use or similar taxes related to the Work.

- .3 Totals as Equitable Adjustment. The Contractor agrees that the total of the above items constitute an equitable adjustment for any and all costs or damages resulting from a change.
- .4 No Equitable Adjustment for Obstruction by Contractor. No equitable adjustment shall be made as a result of costs resulting from any act, hindrance, obstacle, obstruction, interference or omission of the Contractor, its Subcontractors, Suppliers, or surety, or any other entity or individual acting on behalf of the Contractor.
- .5 Calculation of Certain Equitable Adjustments.

- A. In case of delay in completion of the entire Contract due to drawings, designs or specifications that are defective and for which the City is responsible, the equitable adjustment for delays or costs incurred prior to notification to the City of such defect shall only include the extra cost and time reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect.
 - B. An equitable adjustment shall not include increased costs for delay resulting from the Contractor's failure to continue performance during determination of any Contractor Change Request or claim.
- .6 Price Reductions for Defective Cost or Pricing Data. If it is later determined that pricing adjustments to the Contract were not correct due to incomplete or inaccurate pricing data by the Contractor or any Subcontractor or Supplier or that lower prices were reasonably available, the price shall be reduced accordingly and the Contract Amount modified by an appropriate Change Order.
 - .7 Variation in Quantity of Unit Priced Items. Where the quantity of a unit-priced item in the Contract is an estimated quantity and the actual quantity of the unit-priced item varies more than twenty-five percent (25%) above or below the estimated quantity, and where this difference changes the total original Contract value by more than five percent (5%), an equitable adjustment in the Contract Amount may be made by Change Order. The equitable adjustment shall be based upon any increase or decrease in cost due solely to the variation above one hundred twenty-five percent (125%) or below seventy-five percent (75%) of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completing the Work, the Contractor may request, in writing, an extension of time in accordance with GC 1105.
 - .8 Disposition of Excess or Obsolete Property. When the cost of materials, supplies, equipment or other personal property made obsolete or excess as a result of a delay is included in the equitable adjustment, the Project Manager shall have the right to prescribe the manner of disposition of such property.

1105 TIME EXTENSIONS

- .1 Any extension of the Contract Time must be requested in a Contractor Change Request that complies with all of the requirements of GC 1103. Failure to strictly comply with the timing and submittal requirements of GC 1103 and, if applicable, GC 1202, shall constitute a waiver of any request or claim.
- .2 If the Contractor is delayed at any time in the progress of the Work and such delay was caused, in whole or in part, by any act or omission of the City, Designer, any separate contractor, or by changes ordered in the Work, or by directed suspensions of the Work pursuant to Title 21, strikes, lockouts, fire, unusual delay by common carriers, unavoidable casualties, or any other causes beyond the Contractor's control, then the Contract Time may be extended by the Manager. Such extensions will be for such period of time as the Manager may in his sole discretion determine based upon the criteria of GC 1105.4; provided, however, that such delay could not have been avoided by the exercise

of due diligence by the Contractor and did not result from the acts or omissions of the Contractor and, provided further, that the Contractor has taken reasonable actions to mitigate or prevent further delays resulting from such causes.

- .3 If abnormal weather conditions are the basis for a request for an extension of the Contract Time, such request shall be documented by data substantiating that weather conditions were unusually severe for the period of time, and could not have been reasonably anticipated. To establish the existence of abnormal weather, the Contractor must submit documentation that establishes that the weather conditions experienced fall outside of the extreme ranges of weather data published by the National Climatic Data Center for the Denver Metropolitan Area for the ten (10) year period immediately preceding the date of the Contract. Regardless of actual weather conditions, any Day in which the Contractor is able to work eighty percent (80%) or more of its scheduled work force shall not be counted as an abnormal weather Day for purposes of calculating weather related time extensions.
- .4 Any adjustment in Contract Time shall be determined in accordance with the scheduling requirements in the Contract Documents. The Contractor shall support any request for an adjustment in Contract Time with a schedule produced in accordance with the Contract Documents that shows how and where the change has or will delay the completion of the entire Contract beyond the time limits set forth in the Contract Documents. This submittal shall include a description of the Contractor's efforts to reschedule work in order to mitigate the impact of the changes on the schedule. No extensions of Contract Time will be made for delay resulting from the Contractor's failure to continue performance during determination of any Contractor Change Request or claim.

TITLE 12- CONTRACTOR CLAIMS FOR ADJUSTMENT AND DISPUTES

1201 NOTICE OF INTENT TO CLAIM

- .1 After the Contractor has complied with the requirements of GC 1103 and if the Contractor receives a decision from the Project Manager that a requested Change Order or Field Order/Change Directive will not be issued, the Contractor does not agree with a decision on an equitable adjustment in compensation or time, the Contractor disputes a decision to assess liquidated damages or other charges against the Contractor or any other event occurs giving rise to a claim for additional compensation or time under the Contract; and the Contractor intends to submit a claim therefore, the Contractor shall submit, in letter form, a Notice of Intent to Claim to the Deputy Manager with a copy to the Project Manager.
- .2 The written Notice of Intent to Claim shall be clearly titled as such and dated. All such notices shall be numbered sequentially. Such Notice shall contain, at a minimum, the following:
 - A. Project title and number.
 - B. Date of the event giving rise to the Claim.
 - C. A description of the Claim and the events giving rise to the Claim, including the original request and the Project Manager's decision or denial.
 - D. The reasons why the Contractor believes additional compensation or time is due or charges were wrongly assessed.
 - E. An accounting or estimate of all additional costs associated with the Claim.
 - F. Contractor's plan for mitigating costs or delays associated with the Claim.
- .3 The Notice of Intent to Claim described above shall be given within ten (10) Days after (i) denial of any request for a change in the Contract Amount or Contract Time contained in a Contractor Change Request submitted pursuant to GC 1103, (ii) receipt of written notice that the City intends to assess liquidated damages or other charges against the Contractor or (iii) the occurrence of any other event or events giving rise to the Claim, with the exception of an appeal made in accordance with the provisions of GC 1802 (warranty work) or GC 2202 (termination for convenience).

1202 SUBMITTAL OF CLAIMS

- .1 The Contractor shall, within twenty (20) Days after it submits a Notice of Intent to Claim (or within ten (10) Days in the event of a delay claim), submit to the Deputy Manager, with a copy to the Project Manager, a complete and itemized Claim that includes the claimed increase in Contract Time, and/or Contract Amount. The Contractor may request an extension of time to submit the Claim, which extension may be granted by the Deputy Manager, provided that good cause is shown. The Claim must be described in sufficient detail to allow the Deputy Manager to evaluate the basis of and costs associated with said Claim. A Claim for an increase in Contract Amount shall be submitted based on actual

costs whenever possible, rather than an estimate or opinion, shall be supported by invoices, time cards, and other business records commonly accepted in the industry, and shall comply with the requirements of GC 1104. Any Claim for delay made pursuant to GC 1105 shall also include the information required by GC 1105. The Claim shall be accompanied by copies of all Contract provisions or other documents supporting the Claim and a summary of the legal and factual theories supporting the Claim. A Claim for time extension must be accompanied by a Revised Construction Schedule reflecting the effects of the delay on the completion of critical activities and showing actions that the Contractor has taken or proposes to take to minimize the effects of the delay. The Claim shall also identify any measures the City can take to minimize the Claim.

- .2 The Contractor shall furnish, upon request, all additional information and data that the Deputy Manager determines is needed to aid in resolving the Claim through negotiation or is required to complete an evaluation of the Claim. The Contractor shall give the City access to its books, correspondence, records, electronic files and data bases, and any other materials relating to the Claim, shall require its Subcontractors and Suppliers to provide the City with such access, and shall make its Personnel and that of its Subcontractors and Suppliers available to discuss and answer cost, schedule and other questions relating to the Claim. Clear copies of all necessary supporting records shall be provided to the City at no cost. Failure to submit requested information may be a basis for denial of the Claim.
- .3 Failure to submit the Claim in writing within the time and in the manner described above, or within such extended time granted by the Deputy Manager, shall constitute a waiver by the Contractor of any right, equitable or otherwise, to make such Claim.
- .4 The Contractor shall submit with its Claim a notarized certificate, executed under penalties of perjury, that:
 - A. The Claim is made in good faith;
 - B. All supporting data are accurate and complete to the best of the Contractor's knowledge and belief;
 - C. The amount requested accurately reflects that Contract adjustment for which the Contractor believes the City is liable; and
 - D. The prices stated for material and equipment are the lowest reasonably available to the Contractor and include all available discounts.
- .5 If the Contractor is an individual, the certification shall be executed by that individual; if the Contractor is not an individual, the certification shall be executed by an officer or general partner of the Contractor.
- .6 The Deputy Manager or his designee shall investigate, review, and evaluate the Claim and make a determination. Such determination shall be made in writing within sixty (60) Days of receipt of a completed and fully documented claim, unless special circumstances exist or the Claim is unusually complex, in which case the Contractor will be notified of any longer period. If no determination is made within sixty (60) Days, or by the end of any announced extended period of time, the claim is automatically denied.

- .7 If the Contractor disagrees with the Deputy Manager's determination, the Contractor may, within thirty (30) Days after the date of the Deputy Manager's written decision, petition the Manager for a hearing on the claim pursuant to GC 1301. In the event any Notice is deemed denied without action by the Deputy Manager under GC 1202.6, the Contractor may, within thirty (30) Days of the date denial is deemed to have occurred, petition the Manager for a hearing pursuant to GC 1301.
- .8 The Contractor shall proceed diligently with performance of the Contract, pending final resolution of any Claim made under this GC, and shall comply with any decision of the Deputy Manager pending final resolution of the Claim. Failure to proceed with the Work shall be grounds for suspension or termination of the Contract.
- .9 If the Contractor agrees with any determination or resolution by the Deputy Manager, such determination or resolution shall be processed as a Change Order.

1203 WAIVER OF CLAIMS

Failure to strictly meet any of the requirements of this Title 12 in a timely and complete manner shall constitute a waiver by the Contractor of any and all right to adjustments of Contract Time or Contract Amount, either by administrative review or by any other action at law or equity.

TITLE 13 - DISPUTES

1301 DISPUTES

- .1 It is the express intention of the parties to this Construction Contract that all disputes of any nature whatsoever regarding the Construction Contract including, but not limited to, any claims for compensation or damages arising out of breach or default under this Construction Contract, shall be resolved by administrative hearing pursuant to the provisions of Section 56-106, DRMC for Public Works Department Contracts, pursuant to the provisions of DRMC §5-17 for Department of Aviation contracts or, with respect to appropriate issues involving Small Business Enterprise contracting, any federal Disadvantaged Business Enterprise program, or MBE/WBE compliance, by Section 28-33, DRMC.
- .2 The Contractor expressly agrees that this dispute resolution process is the sole and only dispute resolution mechanism that will be recognized and employed by the parties for any claims put forward by the Contractor, notwithstanding any other claimed theory of entitlement on the part of the Contractor or its Subcontractors or Suppliers.

TITLE 14 - SITE CONDITIONS

1401 DIFFERING SITE CONDITIONS

1. The Contractor shall immediately, and before such conditions are disturbed, notify the Project Manager, first verbally and later with a properly documented letter, of the following:
 - A. Subsurface or latent physical conditions at the Work site differing materially from those indicated in the Contract Documents, or physical conditions differing from those conditions present at the time of bidding; or
 - B. Unknown physical conditions at the Work site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.
2. The City shall promptly investigate the conditions, and if it finds that such conditions do materially differ and could not have been discovered, or reasonably inferred, from the Contract Documents or a thorough inspection of the Work site by the Contractor, and such conditions cause an increase or decrease in the Contract Amount, or Contract Time, the City shall issue a Field Order/Change Directive as specified in GC 1102.
3. If the Contractor has not fully complied with the notice and submittal requirements of this GC 1401 and GC 1102, with particular attention to not disturbing the site prior to allowing the Project Manager to investigate the condition, the Contractor shall be deemed to have waived its right to assert a claim for an adjustment in the Contract Amount or Contract Time arising out of such differing site conditions.

1402 SITE INSPECTIONS AND INVESTIGATIONS

- .1 Site Conditions: Drawings and specifications defining the Work to be done were prepared on the basis of interpretation by Design Professionals of information derived from investigations of the Work site. Such information and data are subject to sampling errors, and the interpretation of the information and data depends to a degree on the judgment of the Design Professional. Information about the degree of difficulty of the Work to be done cannot totally be derived from either the drawings and specifications or from the Project Manager. The Contractor shall not be entitled to an adjustment to the Contract Time or Contract Amount for any condition which was or would have been evident at the time of a pre-bid site inspection. By executing the Contract, the Contractor represents that it has visited the site if and to the extent it believed necessary, familiarized itself with the location and conditions under which the Work is to be performed and correlated its observations with the requirements of the Contract Documents. The Contractor shall not be entitled to an adjustment to the Contract Time or Contract Amount for any condition which was or would have been evident at the time of a pre-bid site inspection.
- .2 Geotechnical and Other Design Professional Reports, Investigations and Tests:
 - A. The Contractor acknowledges that certain soils reports, borings, and other geotechnical data, more particularly described or referenced in the Technical

Specifications of the Contract, have been made available for inspection and review. The borings were made for the use of the City in the design of the Project and are not intended to be interpreted for use in temporary construction facilities designed by the Contractor.

- B. The City in no way warrants the accuracy or reliability of said borings and other geotechnical data or of the data, information or interpretations contained in said soils reports, and is not responsible for any deduction, interpretation, or conclusion drawn therefrom by the Contractor. Said soil reports may contain interpretations by Design Professionals of borings and geotechnical data obtained at the Work site. Such borings and geotechnical data are subject to sampling errors, and any interpretations or conclusions based on such borings and data depend to a degree on the judgment of the Design Professionals.
- C. The Contractor agrees that it will make no claims against the City if, in performing the Work, it finds that the actual conditions encountered do not conform to those indicated by said soil reports, borings and other geotechnical data, or those reasonably inferred therefrom or reasonably discoverable by a thorough inspection of the site by the Contractor.

TITLE 15 - PERFORMANCE AND PAYMENT BONDS

1501 SURETY BONDS

- .1 Payment and performance bonds must be issued by a corporate surety authorized to do business in the State of Colorado and approved by the Mayor, the Manager and the City Attorney.
- .2 Before the Contract is executed, the Contractor shall have furnished such surety bonds and appropriate Powers of Attorney as a guarantee of the faithful performance of the Contract and the payment of bills for labor and materials.
- .3 The Manager may direct, at his sole discretion, that the required payment and performance bonds be combined in a format approved by the City Attorney.

1502 PERFORMANCE BOND

The Contractor must procure and pay for a performance bond which, when executed by the Contractor and surety, shall be a guarantee for the faithful performance and completion of the Work in strict accordance with the terms of the Contract. The performance bond shall also be a guarantee for the repair or replacement of all Work found to be defective or otherwise unacceptable during the Contract Time and through any warranty and guarantee periods. This bond shall be in the amount of one hundred percent (100%) of the dollar value of the Contract. The Contractor shall utilize the Performance Bond Form included in the Contract Documents.

1503 PAYMENT BOND

The Contractor must procure and pay for a payment bond which, when executed by the Contractor and surety, shall be a guarantee that all those performing labor or furnishing materials, supplies, rental items, tools, and equipment for the performance of the Work under the Contract shall be paid. This bond shall be in the amount of one hundred percent (100%) of the dollar value of the Contract, and it shall meet the requirements of CRS §38-26-101, et seq, as amended. The Contractor shall utilize the Payment Bond Form included in the Contract Documents.

TITLE 16 - INSURANCE AND INDEMNIFICATION

1601 INSURANCE

To assure the City that the Contractor is always capable of fulfilling the specified indemnification obligations, the Contractor is required to purchase and maintain insurance of the kind and in the minimum amounts specified in the Contract Documents. However, the insurance requirements contained in the Contract Documents shall not be deemed to limit or define the obligations of the Contractor as provided elsewhere in these General Conditions. The Contractor shall be responsible for payment of all deductibles under such policies.

1602 DEFENSE AND INDEMNIFICATION

- .1 To the fullest extent permitted by law, the Contractor hereby 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 related to the work performed under this Agreement that are due to the negligence or fault of the Contractor or the Contractor's agents, representatives, subcontractors, or suppliers ("Claims"). This indemnity shall be interpreted in the broadest possible manner consistent with the applicable law to indemnify the City.
- .2 Contractor'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 suit has been filed and even if Contractor is not named as a Defendant.
- .3 Contractor will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.
- .4 Insurance coverage requirements specified herein shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain at its own expense any additional insurance that it deems necessary for the City's protection in the performance of this Agreement.
- .5 This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

TITLE 17 - INSPECTION AND DEFECTS

1701 CONSTRUCTION INSPECTION BY THE CITY

- .1 Persons who are employees of the City or who are under contract to the City will be assigned to inspect and test the Work. These persons may perform any tests and observe the Work to determine whether or not designs, materials used, manufacturing and construction processes and methods applied, and equipment installed satisfy the requirements of the drawings and specifications, accepted Shop Drawings, Product Data and Samples, and the Contractor's warranties and guarantees. The Contractor shall permit these inspectors unlimited access to the Work and provide, at no cost to the City, means of safe access to the Work. In addition, Contractor shall provide whatever access and means of access are needed to off-site facilities used to store or manufacture materials and equipment to be incorporated into the Work and shall respond to any other reasonable request to further the inspector's ability to observe or complete any tests. Such inspections shall not relieve the Contractor of any of its quality control responsibilities or any other obligations under the Contract.
- .2 The Building Inspection Division will perform building code compliance inspections for structures designed for human occupancy. It is the Contractor's responsibility to schedule and obtain these inspections. If a code compliance inspection results in a condition which will be at variance to the Contract Documents, the Contractor shall immediately notify the Project Manager and confirm such notification with formal correspondence no later than forty-eight (48) hours after the occurrence.

1702 AUTHORITY OF INSPECTORS

Inspectors assigned to the Work by the Project Manager are authorized to reject any Work, any materials, or any component of the Work that is not as required or specified in the Contract Documents. Such rejection will be confirmed by the Project Manager in writing to the Contractor.

1703 OBSERVABLE DEFECTS

- .1 Observable defects are those that are discoverable by routine testing and inspection procedures or by implementing special tests as required or implied by the Technical Specifications.
- .2 Defects discovered by the inspection process shall be repaired, removed, or replaced by the Contractor, at no cost to the City, as these are identified.

1704 DEFECTS - UNCOVERING WORK

- .1 The City shall have the right to inspect all Work on an on-going basis to determine whether or not the Contractor's Work is adequate to provide the product as well as the quality of product for which the City contracted. Whether or not the Work is defective will be determined by comparing it to the Contract Drawings, Technical Specifications, accepted Shop Drawings and manufacturer's literature and further measuring it against the standard of quality implied by the Contractor's warranty. Also, should the appearance and performance of any element of the Work fail to conform to standards of the trade for

such Work, that Work may be declared defective. If defective Work is discovered during such inspections, the City shall have the right to charge the Contractor for its costs of reinspecting the Work after the defective Work is corrected.

- .2 If any portion of the Work is covered by the Contractor or otherwise is made inaccessible for inspection, it must, if required by the City, be uncovered for observation at the Contractor's expense. If the covered Work is found to be in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the City. Any Work that covers other Work prior to the reasonable opportunity to inspect such Work, or contrary to the request of the City or contrary to a Contract requirement will not be paid for until the quality of the covered work can be assured. The cost of obtaining such assurance shall be borne by the Contractor.

1705 LATENT DEFECTS

- .1 Materials and equipment incorporated into the Work may have, or as a result of the construction process may develop, hidden defects. Such defects shall be known as latent defects, and, subject to applicable law, the Contractor shall guarantee that such latent defects, when discovered, will be remedied at no cost to the City.
- .2 If the City incurs additional costs in determining or verifying the existence of latent defects, such costs shall be reimbursed by the Contractor.

1706 REMOVAL OF DEFECTIVE MATERIALS AND WORK

The Contractor shall remove from the Work and the Work site all defective materials or Work rejected by the City. Upon failure by the Contractor to remove and properly dispose of the rejected material or Work within ten (10) Days after receiving written notice to do so, the City shall have the right to charge the Contractor for its costs of having such material or Work removed and reinspecting the Work after the defective Work is corrected.

TITLE 18 - WARRANTIES, GUARANTEES AND CORRECTIVE WORK

1801 CONTRACTOR'S WARRANTIES, GUARANTEES AND CORRECTION OF WORK

- .1 The Contractor warrants that all parts, materials, components, equipment, systems and other items incorporated into the Work shall be new, unless otherwise specified, and suitable for the purpose used, and will be of good quality, free from faults and defects and in conformance with the Contract Documents. The Contractor also warrants that its workers will be sufficiently skilled to produce quality Work that is free of faults and defects. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor, when requested, shall furnish the City with satisfactory evidence of the kind and quality of materials and equipment proposed to be incorporated into the Work. The Contractor further warrants that the construction processes and methods employed to perform the Work shall have in the past proven to be suitable for the results expected. If the Contractor proposes to use unproved or untried processes, products or methods, the Project Manager must be advised of that proposal, in writing, prior to using the proposed process. The City may permit such experimentation, and it may require special guarantees of the Contractor to cover the Work produced by any new and untried process, method or product.
- .2 The Contractor further warrants that it has full title to all parts, materials, components, equipment and other items conveyed to the City under the terms of the Contract, that its transfer of such title to the City is rightful and that all such parts, materials, components, equipment and other items shall be transferred free and clear from all security interests, liens, claims, or encumbrances whatsoever. The Contractor agrees to warrant and defend such title against all persons claiming the whole or any part thereof, at no cost to the City.
- .3 The Contractor shall promptly investigate, repair, replace or otherwise correct any of its workmanship and any parts, materials, components, equipment or other items in the Work which contain faults or defects whether such failures are observed by the City or Contractor at any time during the Contract Time or during the warranty and guarantee period. The Contractor shall bear all costs of investigating and correcting, which includes the design efforts necessary to correct such Work covered by the warranties and guarantees described in this GC 1801.3 or elsewhere in the Contract Documents. If repair or replacement of faulty items of the Work is necessary, proper temporary substitutes shall be provided by the Contractor in order to maintain the progress of the Work and/or keep systems operating without any additional costs to the City. The obligations of this GC 1801.3 shall survive termination of the Contract under the provisions of Title 22. Nothing herein shall limit the City's right to seek recovery for latent defects that are not observable until after the warranty or guarantee periods have run.
- .4 The Contractor's warranties and guarantees for all Work components shall continue for the following periods:
 - A. For Contracts executed under the authority of the Manager of Public Works, for a period of three (3) years after the date of Final Inspection for Work performed

within the Public Right-of-Way or permanent easements held by the City, or for a period of one (1) year after the date of Substantial Completion for Work constructed outside of the Public Right-of-Way, in accordance with GC 1902, or for such longer period of time as may be prescribed by the terms of any special warranties and guarantees required by the Contract Documents.

- B. For Work constructed on property comprising any portion of the City's Municipal Airport System, for a period of one (1) year after the date of Substantial Completion, in accordance with GC 1902, or for such longer period of time as may be prescribed by the terms of any special warranties and guarantees required by the Contract Documents.

The obligations of this GC 1801.4 shall survive termination of the Contract under the provisions of Title 22.

- .5 Nothing contained in this GC 1801 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents. The establishment of the warranty periods set forth above relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which its obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligations and resulting damages other than specifically to correct the Work.
- .6 The Contractor, at its own expense, shall also investigate, repair or replace any damages to any equipment, facilities or other personal or real property owned or leased by the City, which is damaged as a result of any fault or defect in the Work, at no cost to the City.
- .7 All Subcontractors', manufacturers', and Suppliers' warranties and guarantees, express or implied, for any part of the Work and any materials used therein shall be obtained and enforced by the Contractor for the benefit of the City whether or not these warranties and guarantees have been assigned or otherwise transferred to the City. The Contractor shall assign or transfer such warranties and guarantees to the City if the City requests the Contractor to do so, but such transfer shall not affect the Contractor's obligation to enforce such warranties and guarantees.
- .8 The Contractor shall specifically stipulate in all Subcontractor or Supplier contracts and purchase order forms for all materials and systems that the guarantee period begins with the date of Substantial Completion. The Contractor shall, during the course of the Work, specifically instruct Subcontractors and Suppliers that all written guarantees, that are due to be submitted to the City, shall indicate the initiation of the guarantee period as being the date of Substantial Completion.

1802 PERFORMANCE DURING WARRANTY PERIOD

- .1 The Project Manager will notify the Contractor of defective Work that is found to be defective and fails to satisfy the warranties and guarantees described in GC 1801, or elsewhere in the Contract Documents, and the Contractor shall, within ten (10) Days or such longer time as may be requested and set forth in the notice, commence the repair,

replacement or correction of the defective Work. Should the Contractor fail to complete such Work within a reasonable period, the City may make the repairs or replacements at the expense of the Contractor. If the City determines that immediate action to make repairs, replacements or other corrections is necessary because of emergency conditions or to prevent further loss or damage, the City may proceed without notice to the Contractor, but at the expense of the Contractor.

- .2 If the Contractor does not proceed with the correction of such defective Work within the time fixed by written notice from the Project Manager, or in an emergency condition, the City may remove and store any defective materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of the removal and storage within ten (10) Days thereafter, the City may, upon ten (10) additional Days' written notice, sell the stored Work at auction.
- .3 If the proceeds of sale do not cover all costs that the City has incurred and which the Contractor should have borne, the difference shall be charged to the Contractor and the Contractor and its surety shall be liable for and pay such difference to the City.
- .4 If the Contractor does not agree that the Work is defective or the defective Work is its responsibility and if there are no emergency conditions, the Contractor may request review, in writing, of the Project Manager's decision in accordance with Title 13. If such review is not requested within ten (10) Days of the notification of defective Work, the Contractor shall have waived the right to contest its responsibility for the correction of the defective Work. Under emergency conditions, the Contractor shall immediately correct the alleged defective Work, and the question of responsibility for the expense shall be determined by the Deputy Manager, subject to the right of the Contractor to seek review within ten (10) Days of the City's notice allocating responsibility for the expense.
- .5 Should the City claim by written communication sent or mailed before the warranty or guarantee period expires that certain defective Work exists and that it requires repair or replacement, the warranty and guarantee period shall be automatically extended for as long as the defective Work exists.

TITLE 19 - SUBSTANTIAL COMPLETION OF THE WORK

1901 CONTRACTOR'S NOTICE OF SUBSTANTIAL COMPLETION

When the Contractor considers that the Work is substantially complete as defined in GC 119, the Contractor shall notify the Project Manager that the Work is completed to the required stage and is ready for inspection and shall include with its Notice of Substantial Completion of the Work a list of minor items (Contractor's punch list) to be completed or corrected that would not affect beneficial occupancy.

1902 INSPECTION AND PUNCH LIST

Within ten (10) Days after receipt of the Contractor's Notice of Substantial Completion of the Work, the Designer, Project Manager, Contractor, and such other representatives as the Project Manager deems appropriate, shall make an inspection of the Work to determine whether the Work has been completed in accordance with the Contract Documents and to review the Contractor's punch list. If, in the sole opinion of the Project Manager, the Work has not been completed to the required stage under this Title 19, the parties shall cease the inspection, and all costs associated with such premature inspection, including any compensation for the Designer's additional services and the City's additional costs, shall be deducted from the payments then or thereafter due the Contractor. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City. If the Work has been completed to the required stage under this Title 19, a punch list shall be prepared by the Designer and consist of those items listed by the Contractor to be completed or corrected as supplemented by those items observed and noted during the inspection. Failure to include any items on the punch list shall not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

1903 CERTIFICATE OF SUBSTANTIAL COMPLETION

When the Project Manager, on the basis of the inspection and with the Designer's recommendation, determines that the Work or designated portions thereof are complete, the Project Manager will prepare a Certificate of Substantial Completion of the Work, which shall establish the Date of Substantial Completion of the Work. The certificate shall state the responsibilities of the City and the Contractor for security, maintenance, property insurance premiums, and damage to the Work, list the items still to be completed by the Contractor, and fix the time within which the Contractor shall complete the items listed therein. The City shall be responsible for water, heat, and utilities unless otherwise agreed to and stated on the certificate. The Certificate of Substantial Completion of the Work shall be signed by the City and the Contractor to evidence their written acceptance of the responsibilities assigned to them in such Certificate. The date of Substantial Completion of the Work shall establish the date of completion for determining liquidated damages, but shall not otherwise alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

1904 RIGHT OF EARLY OCCUPANCY OR USE

- .1 The City shall have the right to take early beneficial possession of and to use any completed or partially completed portions of the Work, even if Substantial Completion of

the Work has not occurred and even if the Work has not been finally accepted. Such beneficial possession and early occupancy shall not constitute Substantial Completion of such portions of the Work nor affect the City's right to assess liquidated damages as set out herein.

- .2 If the City elects to take possession of and to use any completed or partially completed portions of the Work prior to Substantial Completion, an inspection shall be made by the Contractor and the Project Manager. Based upon such inspection, the Project Manager will attempt to list all incomplete Work items observed, and shall provide the Contractor with such list. However, the absence of an item from the list shall not relieve the Contractor of responsibility to perform all of the Work. Any and all areas so occupied will be subject to a final inspection when the Contractor complies with GC 2002.
- .3 At the time of such inspection, the parties shall also negotiate the responsibilities of the City and the Contractor for security, maintenance, heat, utilities, property insurance premiums, and damage to the Work. These negotiations are subject to the final approval of the Manager.
- .4 In the event the Contractor believes there will be an additional cost associated with completion of the Work while the City occupies the Work in whole or in part under this GC 1904, the Contractor shall advise the Project Manager by Contractor Change Request of all such costs at or before the time of such inspection. If the Contractor fails or refuses to furnish such cost information, or fails or refuses to comply with the Contractor Change Request procedure contained herein, the Contractor shall be deemed to have waived any and all rights to assert any Claim therefore at any time thereafter.
- .5 If the City's need to occupy the Work prior to such time as the Work is complete is caused by the Contractor's failure to complete the Work within the stipulated Period of Performance, the Contractor shall bear any and all additional costs associated with completing the Work.

TITLE 20 - FINAL COMPLETION AND ACCEPTANCE OF THE WORK

2001 CLEAN-UP UPON COMPLETION

- .1 Prior to Substantial Completion of the Work, the Contractor shall remove all waste materials, excess materials, tools, and equipment such as scaffolding, temporary structures, and unneeded facilities such as fencing and sanitary facilities. Full compliance with GC 324 is required throughout the Contract Time.
- .2 The Contractor shall clean and replace broken or scratched windows, clean and repair all surfaces, and clean and adjust all units of equipment that are part of the various building systems.
- .3 The Work constructed under these Contract Documents must be clean as defined in the Technical Specifications and ready for full use before it is given a Final Inspection.
- .4 Final payment will not be made to the Contractor until all clean-up is done to the satisfaction of the Project Manager.

2002 FINAL COMPLETION AND ACCEPTANCE OF THE WORK

- .1 Final Inspection. The Contractor shall notify the Project Manager in writing when all punch list items have been completed and all clean-up has been done. The Project Manager will then make the final inspection for the purpose of ascertaining that the Work has been fully completed in accordance with the requirements of the Contract Documents.
- .2 Final Acceptance. After the Project Manager has made the final inspection and is satisfied that the Work has been completed in accordance with the Contract, and is satisfied that all submittals have been made and accepted, all as-builts and record documents have been completed and accepted, all Change Orders executed, all final quantities agreed to, and all other Contract Requirements, except for possible future warranty and guarantee work have been accomplished, the Deputy Manager shall issue a document evidencing Final Acceptance. Final payment may then be processed in accordance with the requirements of GC 2003.

2003 FINAL SETTLEMENT

- .1 The City shall not authorize final payment until all items on the punch list have been completed, a document evidencing Final Acceptance is issued, and the Notice of Final Settlement has been published. If the Work is substantially completed, but Final Completion thereof is prevented by the unavailability of materials, or other causes beyond the control of the Contractor, and if consistent with any applicable bond ordinance, the City, in its sole discretion, may release to the Contractor all amounts due except for a retainage of two (2) times the cost of completing the unfinished Work, pursuant to GC 908.2, as estimated by the City.
- .2 Before the City will advertise final settlement, the Contractor shall demonstrate to the operating personnel of the City the proper operation and maintenance of all equipment and systems, and deliver to the Project Manager:

- A. All guarantees and warranties;
 - B. Bound sets of required operations and maintenance manuals and instructions as required by the Contract Documents;
 - C. Record as-built drawings and technical specifications as required by the Contract Documents;
 - D. To the extent not already furnished, the number of copies of all As-Built Shop Drawings or submittal documents, required by the Contract Documents, but in no case less than two (2);
 - E. Satisfactory evidence that all payroll, material bills, taxes and other indebtedness connected with the Work have been paid or otherwise satisfied;
 - F. A complete and final, unconditional waiver or release of any and all lien and claim rights from each Subcontractor, materialman, Supplier, manufacturer and dealer for all labor, equipment and material used or furnished by each on the Work;
 - G. An Affidavit stating that there are no outstanding prevailing wage claims or disputes at either the City Auditor's Office or the US Dept of Labor concerning the Work;
 - H. Consent of the Surety to final payment;
 - I. All submittals required by the Contract Documents; and
 - J. Any other documents required to be furnished by the Contract Documents.
- .3 The Work shall be advertised (Notice of Contractor's Settlement) in accordance with CRS §38-26-107. This statute governs the maintenance and enforcement of claims for payment against the Project by Subcontractors, Suppliers and certain others. Final payment and settlement shall be made only after the Contractor has completed the foregoing requirements, and the City is satisfied that no claims by Subcontractors or Suppliers have been filed or remain pending.
- .4 If any unpaid claim for labor, materials, rental machinery, tools, supplies, or equipment is filed prior to the date set for final settlement, the City shall withhold from payments to the Contractor sufficient funds to ensure the payment of such claim, until the same shall have been paid or withdrawn. Such payment or withdrawal shall be evidenced by filing with the Project Manager an unconditional receipt in full or an order for withdrawal signed by the claimant or its duly authorized agent or assignee. The City will withhold from payment any funds it may be required by law to withhold or that it may in the determination of the Manager be entitled to withhold, and final payment will not be made until, in the sole determination of the Manager, all conditions of the Contract and of law have been met.
- .5 In the event there are outstanding claims against the Contractor or its Subcontractors or for any other reason the Contractor is not able to fulfill one or more of the requirements of this GC 2003, the Manager may, at his sole discretion, waive the requirement; provided the surety on the Performance and Payment Bonds will agree to the City making

final settlement without in any way lessening or modifying the surety's liability under such Performance and Payment Bonds.

- .6 Final payment will not be made until all tax reports, properly certified, have been filed with the City and all sales, use and occupational privilege taxes have been paid. If any sales, use, occupational privilege or personal property taxes remain unpaid, the City shall withhold from payment to the Contractor sufficient funds to ensure the payment of the taxes. The Manager of Finance may treat these withheld funds as subject to tax lien under the applicable sections of DRMC §53-1, et seq., or CRS §39-1-101, et seq. The Contractor, however, retains all rights to protest, to a refund and to appeal, as set forth in any applicable sections of the Denver Revised Municipal Code and the Colorado Revised Statutes.
- .7 In the event an overpayment was made by the City, the Contractor shall immediately return amounts overpaid and provide the required documentation described herein.
- .8 At the time of delivery to the Contractor of the final payment, the Contractor shall execute and give to the City a Final Receipt for the same.
- .9 The acceptance of final payment shall constitute a waiver of all Claims by the Contractor except those previously made in accordance with GC 1301 which have been separately identified by the Contractor as unsettled in the final Project Application for Payment, and which the City agrees in writing may be set over for resolution after final payment.
- .10 All provisions of these Contract Documents, including without limitation those establishing obligations and procedures, shall remain in full force and effect notwithstanding the making or acceptance of final payment.

TITLE 21 - SUSPENSION OF WORK

2101 SUSPENSION OF WORK

- .1 The City may suspend all or any part of the Work by written order signed by the Manager, without invalidating the Contract, for such period or periods as it may deem necessary due to:
 - A. Any reason for the convenience of the City, with or without cause, including but not limited to the availability of funding for the Project;
 - B. An order from a state or federal court or administrative agency; or
 - C. The Contractor's failure to perform any provision of the Contract Documents.
- .2 Upon receipt from the Manager of an order to suspend the Work, the Contractor shall, within three (3) Days, submit a suspension plan to the Project Manager for acceptance. The plan shall describe how the Contractor will store all materials in a manner so that the materials will not become an obstruction or become damaged in any way, what cost effective methods it will employ to prevent damage to or deterioration of the Work and otherwise protect the Work, how suitable drainage will be provided, what temporary structures will be necessary, and how the Contractor will prepare for resuming the Work for the least possible remobilization cost. After the plan is accepted, the Contractor shall implement it in accordance with instructions received from the Project Manager.
- .3 Under no circumstance shall a suspension absolve the Contractor or the Contractor's sureties of the duties and responsibilities guaranteed under the performance payment bond(s). The Contractor shall again proceed with the Work when it is ordered to do so in writing by the Manager.
- .4 Upon the resumption of the Work for all suspensions not involving the Contractor's failure to perform in accord with the Contract Documents, adjustment of Contract Time, if appropriate, will be made pursuant to GC 1105. Adjustment of the Contract Amount, if any, will be within the Manager's sole discretion and shall not in any event, exceed the cost of the extra work resulting from such suspension. Such cost, if any, shall be determined in accordance with GC 1104.

2102 SUSPENSION OF THE WORK FOR THE CITY'S CONVENIENCE

Upon decision to suspend the Work or any part of the Work for the City's convenience, the order of suspension will extend the Contract Time for the number of Days of such suspension if all Work is suspended. If the suspension applies to only a part of the Work, a time extension will not be authorized until the partial suspension has run and its effect on the entire Contract can be evaluated. In all cases of suspension for the City's convenience, the costs to the Contractor will be determined in accordance with GC 1104. Upon order of such suspension, the Contractor shall immediately begin to perform in a manner designed to minimize the costs of protecting the Work and maintaining it in a condition which will permit its resumption for the least possible remobilization cost.

2103 SUSPENSION BECAUSE OF ORDER OF CITY, STATE OR FEDERAL COURT OR AGENCY

The order of suspension will identify the court or agency order which caused the suspension and will extend the Contract by the amount of time specified by the court or agency order. If the order causes suspension for an indefinite period of time and as a result a time extension cannot be established, the order of suspension will also be for an indefinite period of time. If the order is issued because of acts or omissions of the Contractor, the Contractor shall not be entitled to a time extension or payment for any additional costs it incurs.

2104 SUSPENSION RESULTING FROM CONTRACTOR'S FAILURE TO PERFORM

If a suspension order results from the Contractor's failure to satisfactorily perform any of the provisions of the Contract, including but not limited to faulty workmanship, safety concerns, improper or inadequate manpower, equipment, supplies or supervision, or failure to perform the Work or pay employees, Subcontractors or Suppliers in a timely manner, the order will identify the reason, or reasons, for the order. In this circumstance, no time extension will be authorized for the Contractor and any costs to the Contractor resulting from such suspension order will not be reimbursed by the City. A suspension order issued under these circumstances will remain in effect until the Contractor has removed or corrected the grounds for the suspension, if applicable, or the order requiring such suspension expires by its terms.

TITLE 22 - CITY'S RIGHT TO TERMINATE THE CONTRACT

2201 TERMINATION OF CONTRACT FOR CAUSE

- .1 The City may terminate the Contract for cause due to the actions or inactions of the Contractor. Such reasons for termination include:
 - A. If the Work to be performed under the Contract is assigned by the Contractor without written permission of the Manager;
 - B. If the Contractor shall file a voluntary petition in bankruptcy;
 - C. If a general assignment of the Contractor's assets is to be made for the benefit of its creditors;
 - D. If a receiver is appointed for the Contractor or any of its property;
 - E. If the Contractor has materially breached any of the conditions, provisions or covenants of the Contract;
 - F. If, at any time, the performance of the Work under the Contract is being unnecessarily delayed or if the Contractor is willfully or deliberately violating any of the conditions, provisions, or covenants of the Contract, Drawings, or Technical Specifications, or if the Contractor is executing the same in bad faith or otherwise not in accordance with terms of the Contract;
 - G. If the Work or any part thereof is not fully completed within the time or times named for its completion or within the time to which such completion date or dates have been extended;
 - H. If the Contractor abandons the Work;
 - I. If the Contractor fails to maintain the required bonds, licenses, permits and/or insurance;
 - J. If the Contractor fails to comply with affirmative action or small business, minority, woman or disadvantaged business enterprise (SBE/MBE/WBE/DBE) requirements;
 - K. If the Contractor sublets more than the Contract allows;
 - L. If the Contractor or any of its officers or employees are convicted, plead nolo contendere, enter into a formal agreement in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature, in connection with Contractor's business; or
 - M. If other just cause exists.
- .2 The Manager will send written notice to the Contractor of the City's intent to terminate for cause and will give the Contractor ten (10) Days from the date the notice was sent to cure the default or provide to the Manager in writing, a detailed plan of how it will

remove the causes for termination, except that, if the Contract completion date is less than ten (10) Days away, the notice may specify less than ten (10) Days. If the Contractor does not submit such plan within the time established, or if, in the judgment of the Manager, such plan will not ensure the satisfactory performance of the Work, the Manager may declare the Contract terminated on the effective date specified in the notice or any other date thereafter.

- .3 In the event of such termination, the Manager shall notify the Contractor to discontinue all Work under the Contract and the Contractor shall immediately respect such notice, stop all Work and cease to have any right to possession of the Work site. In addition, the Contractor shall forfeit its Contract as of the effective date of termination specified.
- .4 Upon such termination, the Manager may take possession of all materials, equipment, tools, and plant as may be on the site of the Work or necessary for completion of the Work and take over the Work and prosecute the same to completion, by Contract or otherwise, for the account and at the expense of the Contractor. The Contractor shall be liable to the City for any and all costs and expenses in excess of the Contract Amount or prices sustained by the City by reason of such prosecution and completion, which costs shall include all administrative costs.

2202 TERMINATION OF CONTRACT FOR CONVENIENCE OF THE CITY

- .1 The performance of Work under the Contract may be terminated without cause by the City in whole or in part whenever the Manager, in his sole discretion, shall determine that such termination is in the best interest and convenience of the City or whenever the City is prohibited from completing the Work for any reason. Such termination shall be effected by giving not less than three (3) Days' written notice to the Contractor specifying the extent to which performance of the Work is terminated and the date upon which such termination becomes effective.
- .2 Upon receipt of such notice of termination, the Contractor shall:
 - A. Stop work as specified in the notice;
 - B. Terminate all orders and subcontracts except as necessary to complete Work which is not terminated;
 - C. If directed in writing by the Manager to do so, assign all right, title, and interest in subcontracts and materials in progress, in which case the City will have the right, in its discretion, to settle or pay any or all Claims arising out of the termination of such subcontracts;
 - D. Settle outstanding liabilities and claims with the approval of the Manager;
 - E. Complete performance of such part of the Work as has not been terminated; and
 - F. Take such other actions as may be necessary, or as may be directed by the City, for the protection and preservation of the property related to the Contract.
- .3 Except as provided herein, any inventory resulting from the termination of the Contract may, with written approval of the Manager, be sold or acquired by the Contractor under the conditions prescribed by and at prices approved by the City.

- .4 Upon receipt of notice of such termination, the Contractor shall submit to the Project Manager a request for final payment, in a form and with certification prescribed by the City. Such request shall be submitted promptly but in no event later than sixty (60) Days from the effective date of termination, unless extended in writing by the Project Manager upon the written request of the Contractor within such sixty (60) Day period. The final payment to the Contractor after a termination for convenience shall be calculated as follows:
- A. From the Contract Amount, subtract the following:
 - (1) The total amount paid to the Contractor to date;
 - (2) The value of the Work completed since the last approved pay request;
 - (3) The total amount of retainage withheld by the City to date;
 - (4) The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired or sold by the Contractor or sold pursuant to the provisions of GC 2202.3 and not otherwise recovered by or credited to the City;
 - (5) The total of all claims the City may have against the Contractor; and
 - (6) Any outstanding claims pursuant to CRS §38-26-107, as amended or superseded.
 - B. Multiply the number resulting from Step A by 0.05. The number resulting is the full and complete compensation for anticipated profits.
 - C. Add the following to the total resulting from Step B:
 - (1) Any actual costs incurred by the Contractor for restocking charges;
 - (2) The agreed upon price of protecting the Work in the manner, if any, directed by the City;
 - (3) The amount of retainage withheld by the City to date; and
 - (4) The value of the Work completed since the last approved pay request.
- .6 The sum calculated from GC 2202.5, when paid to the Contractor, shall constitute full and final settlement of the Contract Amount.
- .7 The Manager may, from time to time, under such terms and conditions as the Manager may prescribe, authorize partial payments and payments against costs incurred by the Contractor for the terminated portion of the Contract, if it is estimated that the total of such payments will not exceed the amount to which the Contractor will be entitled. If the total of such payments is in excess of the amount to which the Contractor is entitled, the excess shall be payable by the Contractor to the City upon demand, together with interest computed pursuant to statute, for the period from the date the excess payment is received by the Contractor to the date the excess is repaid to the City.

- .8 The settlement for the Work performed shall not relieve the Contractor or its surety from responsibility for defective Work and/or materials on the completed portion of the Work nor for labor and materials or any other items as guaranteed by the surety bond or bonds.
- .9 The City shall be given full access to all books, correspondence, records, electronic files and data bases, and other materials of the Contractor relating to the Contract in order to determine the amounts to be paid on account of the termination of the Contract under this GC 2202. The Contractor shall, as requested by the City, furnish clear copies of any such materials.
- .10 In the event the parties fail to agree in whole or in part on the amount or amounts to be paid to the Contractor in connection with the termination of work pursuant to this GC 2202, the Contractor may appeal the Project Manager's determination as to the amount owed in accordance with Title 13, except that, if the Contractor has failed to submit its request for payment within the time provided above and has failed to request an extension of such time, it shall have no such right of appeal.

TITLE 23 - MISCELLANEOUS PROVISIONS

2301 PARTIES TO THE CONTRACT

Although other government entities may be involved in the Work performed under the Contract and other parties may be affected by that Work, it shall be understood that there are only two parties to the Contract--the City and the Contractor.

2302 FEDERAL AID PROVISIONS

When the United States of America, acting through any of its duly constituted departments or agencies, provides funds to pay for any portion of the costs of Work performed under the Contract, the provisions of the Constitution, Laws of the United States and the rules and regulations promulgated by the department or agency thereof, pertaining to the utilization of such funds, shall be incorporated by reference as a part of the terms and conditions of the Contract and shall be observed by the Contractor. When the United States of America is involved as a result of providing funds to support the Work of the Contract, it may assign observers or inspectors as it deems necessary to ensure that purposes for which the funds were provided are achieved. However, such activity by the United States does not make it a party to the Contract and shall not interfere with the rights of either the City or the Contractor.

2303 NO WAIVER OF RIGHTS

No assent by the City, expressed or implied, to any breach of any one or more of the terms, conditions, covenants, provisions, and agreements of the Contract Documents by the Contractor shall be deemed or taken to be a waiver of any succeeding breach.

2304 NO THIRD PARTY BENEFICIARY

It is expressly understood and agreed that the enforcement of the terms and conditions of the Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Contractor, and that nothing contained in the Contract shall give or allow any claim or right of action by any other or third person under the Contract. It is the express intention of the City and the Contractor that any member of the public, Subcontractor, Supplier, materialman, tradesman, vendor or other person or entity other than the City or the Contractor receiving services or benefits under the Contract shall be deemed to be an incidental beneficiary only.

2305 GOVERNING LAW; VENUE

Each and every term, condition, or covenant in the Contract is subject to and shall be construed in accordance with the provisions of Colorado law, any applicable federal law, the Charter of the City and County of Denver, and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. Such applicable law, together with the Charter, Revised Municipal Code and regulations of the City and County of Denver, as the same may be amended from time to time, is hereby expressly incorporated into the Contract as if fully set out in the Contract by this reference. Venue for any action arising under the Contract shall be in the Denver County Court or Denver District Court in the City and County of Denver, Colorado.

2306 ABBREVIATIONS

A General Condition is abbreviated as, and may be cited as, “GC.”

2307 STATUTE OF LIMITATIONS IN C.R.S. § 13-80-102(1)(h)

Any action arising out of or relating to the Contract or the Work asserted by Contractor against the City shall be brought within the time period set forth in C.R.S. § 13-80-102(1)(h) from when the action accrued, pursuant to C.R.S. § 13-80-102(1)(h).

This concludes the General Conditions of the Contract.

Exhibit E

Reserved

Exhibit F

**CITY AND COUNTY OF DENVER
RULES AND REGULATIONS AND BID
CONDITIONS OF THE
MANAGER OF PUBLIC WORKS**

**PERTAINING TO EQUAL EMPLOYMENT OPPORTUNITY
IN THE CITY AND COUNTY OF DENVER**

APPROVED FOR LEGALITY:

APPROVED AND ADOPTED:

/s/ _____
Attorney for the City and
County of Denver

/s/ _____
Manager of Public Works

Adopted and Published Pursuant to Article 111, Division 2 of Chapter 28
the Revised Municipal Code
of the City and County of Denver

These Rules and Regulations cancel and supersede any and all previous issued Rules and
Regulations on the subject

RULES AND REGULATIONS
REGARDING
EQUAL EMPLOYMENT OPPORTUNITY

Promulgated and adopted by the Manager of Public Works pursuant to and by authority of Article III, Division 2, Chapter 28 of the Revised Municipal Code of the City and County of Denver, and for the purpose of insuring that contractors, subcontractors and suppliers soliciting and receiving compensation for contract work from or through the City and County of Denver provide equal opportunity in employment without regard to race, color, creed, sex, national origin, age, religion, marital status, political opinion or affiliation or mental or physical handicap and meet certain requirements for the hiring, training, promotion and treatment during employment of members of ethnic groups subjected to differential treatment, including persons of African descent (Black), Spanish-surnamed (Hispanic), Asian-American and American Indian groups.

RULE I
DEFINITIONS

- A. "City" means the City and County of Denver.
- B. "Manager" shall mean the Manager of Public Works for the City and County of Denver.
- C. "Contract" means a contract entered into with the City and County of Denver, financed in whole or in part by local resources or funds of the City and County of Denver, for the construction of any public building or prosecution or completion of any public work.
- D. "Contractor" means the original party to a contract with the City and County of Denver, also referred to as the "general" or "prime" contractor.
- E. "Director" means the Director of the Mayor's Office of Contract Compliance.
- F. "Subcontractor" means any person company, association, partnership, corporation, or other entity which assumes by subordinate agreement some or all of the obligations of the general or prime contractor.
- G. The Phrase "Bidding Specifications" as used in Article 111, Division 2 of Chapter 28 of the Revised Municipal Code shall include BID CONDITION, INVITATION TO BID AND NOTICE OF PROPOSAL.
- H. "Affirmative Action Program" means a set of specific and result-oriented procedures or steps to which a contractor commits himself to apply every good faith effort to employ members of ethnic minority groups, to include persons of African descent (Black), Spanish surnamed (Hispanic), Asian-American, American Indians, and persons with mental or physical handicap.
- I. "Mayor's Office of Contract Compliance" means the City agency established pursuant to Article III, Division 1 of Chapter 28 of the Denver Revised Municipal Code.

RULE 11
NOTICE OF HEARING

When results of conciliation efforts are unsatisfactory to the Manager and he is informed in accordance with Article III, Division 2 of Chapter 28 of the Revised Municipal Code that a contractor or subcontractor has apparently failed to meet affirmative action and equal employment opportunity requirements after a reasonable period of notice to correct deficiencies, the Manager will, prior to imposition of any sanctions, afford the general contractor a hearing in order to determine whether the contractor or his subcontractors have failed to comply with the affirmative action and equal employment opportunity requirements of Article III, Division 2 of Chapter 28 of the Revised Municipal Code or of the contract. Written notice of such hearing shall be delivered personally or sent by certified mail return receipt requested, to the contractor and to any subcontractor involved at least ten days prior to the date scheduled for the hearing.

RULE III
HEARING

- A. Contractors will appear at hearings and may be represented by counsel, and may present testimony orally and other evidence.
- B. Hearings shall be conducted by one or more hearing examiners designated as such by the Manager.
- C. The Director of the Mayor's Office of Contract Compliance may participate in hearings as a witness.
- D. Hearings shall be held at the place specified in the notice of hearing.
- E. All oral testimony shall be given under oath or affirmation and a record of such proceedings shall be made.
- F. All hearings shall be open to the public.
- G. The hearing officer shall make recommendations to the Manager who shall make a final decision.

REGULATIONS

REGULATION NO. 1. ORDINANCE: The Rules and Regulations of the Manager shall be inserted in the bidding specifications for every contract for which bidding is required.

REGULATION NO. 2. EXEMPTIONS: Each contract and subcontract, regardless of dollar amount, shall be subject to affirmative action requirements unless specifically exempted in writing individually by the Manager. Exemptions apply only to "affirmative action" in equal

employment opportunity, and are not to be construed as condonation in any manner of "discrimination" or "discriminatory practices" in employment because of race, color, creed sex age national origin, religion, marital status, political opinion or mental or physical handicap.

REGULATION NO. 3. DIRECTOR OF CONTRACT COMPLIANCE: The Director of the Mayor's Office of Contract Compliance shall perform the duties assigned to such official by Article III, Division 2 of Chapter 28 of the Revised Municipal Code and by the Manager. (1) The Director of the Mayor's Office of Contract Compliance or designated representatives shall inform bidders and contractors of affirmative action procedures, programs, and goals in accordance with the ordinance at pre-bid and pre-construction conference; (2) make regular on-site inspections; (3) supply contractors and subcontractors with report forms to be completed by them when requested, and furnished to the Director of the Mayor's Office of Contract Compliance; and (4) review payroll records, employment records and practices of general contractors and their subcontractors and suppliers during the performance of any contract. The Director of the Mayor's Office of Contract Compliance shall promptly report apparent affirmative action deficiencies to the Manager.

REGULATION NO. 4. GOALS AND TIMETABLES: In general, goals and timetables should take into account anticipated vacancies and the availability of skills in the market place from which employees should be drawn. In addition, where discrimination in employment by a general contractor or any of his subcontractors is indicated, a corrective action program will take into account the need by the general contractor and his subcontractors to correct past discriminatory practices and reach goals of minority manpower utilization on a timely basis through such recruiting and advertising efforts as are necessary and appropriate.

REGULATION NO.5. AWARD OF CONTRACTS: It shall be the responsibility of the Director of the Mayor's Office of Contract Compliance to determine the affirmative action capability of bidders, contractors and subcontractors and to recommend to the Manager the award of contracts to those bidders, contractors and subcontractors and suppliers who demonstrate the ability and willingness to comply with the terms of their contract.

REGULATION NO. 6. PUBLICATION AND DUPLICATION: Copies of these Rules and Regulations as amended by the Manager from time to time, shall as soon as practicable and after Notice being published will be made a part of all City Contracts.

REGULATION NO. 7. NOTICE TO PROCEED: Prior to issuance of Notice to Proceed a sign-off will be required of the Director of the Mayor's Office of Contract Compliance or his designee.

REGULATION NO. 8. CONTRACTS WITH SUBCONTRACTORS: To the greatest extent possible the contractor shall make a good faith effort to contract with minority contractors, subcontractors and suppliers for services and supplies by taking affirmative actions which include but are not limited to the following:

1. Advertise invitations for subcontractor bids in minority community news media.

2. Contact minority contractor organizations for referral of prospective subcontractors.
3. Purchase materials and supplies from minority material suppliers.

REGULATION NO. 9. AGENCY REFERRALS: it shall be no excuse that the union with which the contractor or subcontractor has an agreement providing for referral, exclusive or otherwise, failed to refer minority employees.

REGULATION NO. 10. CLAUSES: The Manager shall include the appropriate clauses in every contract and the contractor shall cause to be inserted in every subcontract the appropriate clauses:

1. **APPENDIX A:** City and County of Denver Equal Opportunity Clause-ALL CONTRACTS funded only with City & County of Denver monies.
2. **APPENDIX B:** Equal Opportunity Clause (11246)-ALL FEDERAL ASSISTED
3. **APPENDIX C:** Section 3-Assurance of Compliance-HUD ASSISTED PROJECTS.
4. **APPENDIX D:** Section 3-Clause-HUD ASSISTED PROJECTS.

All amendments to the appendices shall be included by reference.

REGULATION NO. 11. SHOW CAUSE NOTICES: When the Manager has reasonable cause to believe that a contractor has violated Article III, Division 2 of Chapter 28 of the Revised Municipal Code, he may issue a notice requiring the contractor to show cause, within fifteen days why enforcement procedures, or other appropriate action to insure compliance, should not be instituted.

REGULATION NO. 12. BID CONDITIONS-AFFIRMATIVE ACTION REQUIREMENTS-EQUAL EMPLOYMENT OPPORTUNITY:

1. APPENDIX E:

The Bid Conditions- Affirmative Action Requirements-Equal Employment Opportunity as amended and published by the U.S. Department of Labor, Employment Standards Administration, Office of Federal Contract Compliance, shall be inserted verbatim for bidding specification for every non-exempt contract involving the use of Federal funds.

2. APPENDIX F:

The Bid Conditions- Affirmative Action Requirements-Equal Employment Opportunity as published by the Department of Public Works, City and County of Denver shall be inserted verbatim as bidding specifications for every non-exempt contract using City funds.

APPENDIX A

CITY AND COUNTY OF DENVER EQUAL OPPORTUNITY CLAUSE-ALL CONTRACTS

1. The contractor will not discriminate against any employee or applicant for employment because of race creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided, advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. Each contractor will comply with all provisions of Article III, Division 2, Chapter 28 of the Revised Municipal Code, and the rules, regulations, and relevant orders of the Manager and Director.
5. The contractor will furnish all information and reports required by Article III, Division 2, Chapter 28 of the Revised Municipal Code, and by rules, regulations and orders of the Manager and Director or pursuant thereto, and will permit access to his books, records, and accounts by the Manager, Director or their designee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders this contract may be cancelled, terminated., or suspended in whole or in part and the contractor may be declared ineligible for further City contracts in accordance with procedures authorized in Article III, Division 2, Chapter 28 of the Revised Municipal Code, or by rules, regulations, or order of the Manager.

7. The contractor will include Regulation 12 Paragraph 2 and the provisions of paragraphs (1) through (6) in every subcontract or purchase order unless, exempted by rules, regulations, or orders of the Manager issued pursuant to Article III, Division 2, Chapter 28 of the Revised Municipal Code, so that such provisions will be binding upon each subcontractor or suppliers. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The applicant further agrees to be bound by the above equal opportunity clauses with respect to its own employment practices when it participates in City contracts. The contractor agrees to assist and cooperate actively with the Manager and the Director in obtaining compliance of subcontractors and suppliers with the equal opportunity clause and the rules, regulations and relevant orders of the Manager, and will furnish the Manager and the Director such information as they may require for the supervision of compliance, and will otherwise assist the Manager and Director in the discharge of the City's primary responsibility for securing compliance. The contractor further agrees to refrain from entering into any contract or contract modification subject to Article III, Division 2, Chapter 28 of the Revised Municipal Code with a contractor debarred from, or who has not demonstrated eligibility for, City contracts.

The contractor will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Manager and Director. In addition, the contractor agrees that failure or refusal to comply with these undertakings the Manager may take any or all of the following actions:

- A. Cancellation, termination, or suspension in whole or in part of this contract.
- B. Refrain from extending any further assistance to the applicant under the program with respect to which the failure occurred until satisfactory assurance of future compliance has been received from such applicant.
- C. Refer the case to the City Attorney for appropriate legal proceedings.

SUBCONTRACTS: Each prime contractor or subcontractor shall include the equal opportunity clause in each of its subcontracts.

**APPENDIX F
BID CONDITIONS
AFFIRMATIVE ACTION REQUIREMENTS
EQUAL EMPLOYMENT OPPORTUNITY**

For all Non-Exempt Construction Contracts to be Awarded by
the City and County of Denver, Department of Public Works

NOTICE

EACH BIDDER, CONTRACTOR OR SUBCONTRACTOR (HEREINAFTER THE CONTRACTOR) MUST FULLY COMPLY WITH THE REQUIREMENTS OF THESE BID CONDITIONS AS TO EACH CONSTRUCTION TRADE IT INTENDS TO USE ON THIS CONSTRUCTION CONTRACT, AND ALL OTHER CONSTRUCTION WORK (BOTH CITY AND NON-CITY) IN THE DENVER AREA DURING THE PERFORMANCE OF THIS CONTRACT OR SUBCONTRACT. THE CONTRACTOR COMMITS ITSELF TO THE GOALS FOR MINORITY MANPOWER UTILIZATION, AS APPLICABLE, AND ALL OTHER REQUIREMENTS, TERMS AND CONDITION OF THESE BID CONDITIONS BY SUBMITTING A PROPERLY SIGNED BID.

THE CONTRACTOR SHALL APPOINT A COMPANY EXECUTIVE TO ASSUME THE RESPONSIBILITY FOR THE IMPLEMENTATION OF THE REQUIREMENTS, TERMS AND CONDITIONS OF THESE BID CONDITIONS.

MICHAEL D. MUSGRAVE
Manager of Public Works
City and County of Denver

A. REQUIREMENTS --AN AFFIRM ATIVE ACTION PLAN:

Contractors shall be subject to the provisions and requirements of these bid conditions including the goals and timetables for minority' and female utilization, and specific affirmative action steps set forth by the Office of Contract Compliance. The contractor's commitment to the goals for minority, and female utilization as required constitutes a commitment that it will make every good faith effort to meet such goals.

1. GOALS AND TIMETABLES:

The goals and timetables for minority¹ and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade are as follows:

GOALS FOR MINORITY PARTICIPATION FOR EACH TRADE

From January 1, 1982
to 21.7% - 23.5%
Until Further Notice

GOALS FOR FEMALE PARTICIPATION FOR EACH TRADE

From January 1, 1982
to 6.9%
Until Further Notice

The goals for minority and female utilization above are expressed in terms of hours of training and employment as a proportion of the total number of hours to be worked by the contractor's aggregate workforce, which includes all supervisory personnel, in each trade, on all projects for the City and County of Denver during the performance of its contract (i.e., The period beginning with the first day of work on the City and County of Denver funded construction contract and ending with the last day of work).

The hours of minority and female employment and training must be substantially uniform throughout the length of the contract in each trade and minorities and females must be employed evenly on each of a contractor's projects. Therefore, the transfer of minority or female employees from contractor to contractor or from project to project for the purpose of meeting the contractor's goals shall be a violation of these Bid Conditions.

¹ "Minority" is defined as including, Blacks, Spanish Surname Americans, Asian-Americans, and American Indians, and includes both men and Minority women.

If the contractor counts the nonworking hours of apprentices they must be employed by the contractor during the training period; the contractor must have made a commitment to employ apprentices at the completion of their training subject to the availability of employment opportunities; and the apprentices must be trained pursuant to training programs approved by the Bureau of Apprenticeship and Training.

2. **SPECIFIC AFFIRMATIVE ACTION STEPS:**

No contractor shall be found to be in noncompliance solely on account of its failure to meet its goals, but will be given an opportunity to demonstrate that the contractor has instituted all the specific affirmative action steps specified and has made every good faith effort to make these steps work toward the attainment of its goals within the timetables, all to the purpose of expanding minority and female utilization in its aggregate workforce. A contractor, who fails to comply with its obligation under the Equal Opportunity Clause of its contract and fails to achieve its commitments to the goals for minority and female utilization has the burden of proving that it has engaged in an Affirmative Action Program directed at increasing minority and female utilization and that such efforts were at least as extensive and as specific as the following:

- a. The contractor should have notified minority and female organizations when employment opportunities were available and should have maintained records of the organization's response.
- b. The contractor should have maintained a file of the names and addresses of each minority and female referred to it by any individual or organization and what action was taken with respect to each such referred individual, and if the individual was not employed by the contractor, the reasons. If such individual was sent to the union hiring hall for referral and not referred back by the union or if referred, not employed by the contractor, the file should have documented this and their reasons.
- c. The contractor should have promptly notified the Department of Public Works, and Mayor's Office of Contract Compliance when the union or unions with which the contractor has collective bargaining agreements did not refer to the contractor a minority or female sent by the contractor, or when the contractor has other information that the union referral process has impeded efforts to meet its goals.
- d. The contractor should have disseminated its EEO policy within its organization by including it in any employee handbook or policy manual; by publicizing it in company newspapers and annual reports and by advertising such policy at reasonable intervals in union publications. The EEO policy should be further disseminated by conducting staff meetings to explain and discuss the policy; by

posting of the policy; and by review of the policy with minority and female employees.

- e. The contractor should have disseminated its EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority and female news media; and by notifying and discussing it with all subcontractors.
- f. The contractor should have made both specific and reasonably recurrent written and oral recruitment efforts. Such efforts should have been directed at minority and female organizations, schools with substantial minority and female enrollment, and minority and female recruitment and training organizations within the contractor's recruitment area.
- g. The contractor should have evidence available for inspection that all tests and other selection techniques used to select from among candidates for hire, transfer, promotion, training, or retention are being used in a manner that does not violate the OFCCP Testing Guidelines in 41 CFR Part 60-3.
- h. The contractor should have made sure that seniority practices and job classifications do not have a discriminatory effect.
- i. The contractor should have made certain that all facilities are not segregated by race.
- j. The contractor should have continually monitored all personnel activities to ensure that its EEO policy was being carried out including the evaluation of minority and female employees for promotional opportunities on a quarterly basis and the encouragement of such employees to seek those opportunities.
- k. The contractor should have solicited bids for subcontracts from available minority and female subcontractors engaged in the trades covered by these Bid conditions, including circulation of minority and female contractor associations.

NOTE: The Director and the Mayor's Office of Contract Compliance will provide technical assistance on questions pertaining to minority and female recruitment sources, minority and female community organizations, and minority and female news media upon receipt of a request for assistance from a contractor.

3. **NON-DISCRIMINATION:**

In no event may a contractor utilize the goals and affirmative action steps required in such a manner as to cause or result in discrimination against any person on account of race, color, religion, sex, marital status, national origin, age, mental or physical handicap, political opinion or affiliation.

4. **COMPLIANCE AND ENFORCEMENT:**

In all cases, the compliance of a contractor will be determined in accordance with its obligations under the terms of these Bid Conditions. All contractors performing or to perform work on projects subject to these Bid Conditions hereby agree to inform their subcontractors in writing of their respective obligations under the terms and requirements of these Bid Conditions, including the provisions relating to goals of minority and female employment and training.

A. **Contractors Subject to these Bid Conditions:**

In regard to these Bid Conditions, if the contractor meets the goals set forth therein or can demonstrate that it has made every good faith effort to meet these goals, the contractor shall be presumed to be in compliance with Article III, Division 2, Chapter 28 of the Revised Municipal Code, the implementing regulations and its obligations under these Bid Conditions. In the event, no formal sanctions or proceedings leading toward sanctions shall be instituted unless the contracting or administering agency otherwise determines that the contractor is violating the Equal Opportunity Clause.

1. Where the Office of Contract Compliance finds that a contractor failed to comply with the requirements of Article 111, Division 2, Chapter 28 of the Revised Municipal Code or the implementing regulations and the obligations under these Bid Conditions, and so informs the Manager, the Manager shall take such action and impose such sanctions, which include suspension, termination, cancellation, and debarment, as may be appropriate under the Ordinance and its regulations. When the Manager proceeds with such formal action it has the burden of proving that the contractor has not met the goals contained in these Bid Conditions. The contractor's failure to meet its goals shall shift to it the requirement to come forward with evidence to show that it has met the good faith requirements of these Bid Conditions.
2. The pendency of such proceedings shall be taken into consideration by the Department of Public Works in determining whether such contractor can comply with the requirements of Article 111, Division 2, Chapter 28 of the Revised Municipal Code, and is therefore a "responsible prospective contractor".
3. The Mayor's Office of Contract Compliance shall review the contractor's employment practices during the performance of the contract. If the Mayor's Office of Contract Compliance determines that the contractor's Affirmative Action Plan is no longer an acceptable program, the Director shall notify the Manager.

B. **Obligations Applicable to Contractors:**

It shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority or female employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the National Labor Relations Act, as amended, Title VI of the Civil Rights Act of 1964, as amended, and Article III, Division 2, Chapter 28 of the Revised Municipal Code. It is the policy of the Department of Public Works that contractors have a responsibility to provide equal employment opportunity, if they wish to participate in City and County of Denver contracts. To the extent they have delegated the responsibility for some of their employment practices to a labor organization and, as a result, are prevented from meeting their obligations pursuant to Article III, Division 2, Chapter 28 of the Revised Municipal Code, such Contractors cannot be considered to be in compliance with Article III, Division 2, Chapter 28 of the Revised Municipal Code, or its implementing rules and regulations.

C. **General Requirements**

Contractors are responsible for informing their subcontractors in writing regardless of tier, as to their respective obligations. Whenever a contractor subcontracts a portion of work in any trade covered by these Bid Conditions, it shall include these Bid Conditions in such subcontracts and each subcontractor shall be bound by these Bid Conditions to the full extent as if it were the prime contractor. The contractor shall not, however, be held accountable for the failure of its subcontractors to fulfill their obligations under these Bid Conditions. However, the prime contractor shall give notice to the Director of any refusal or failure of any subcontractor to fulfill the obligations under these Bid Conditions. A subcontractor's failure to comply will be treated in the same manner as such failure by a prime contractor.

1. Contractors hereby agree to refrain from entering into any contract or contract modification subject to Article 111, Division 2, Chapter 28 of the Revised Municipal Code with a contractor debarred from, or who is determined not to be a "responsive" bidder for the City and County of Denver contracts pursuant to the Ordinance.
2. The contractor shall carry out such sanctions and penalties for violation of these Bid Conditions and the Equal Opportunity Clause including suspension, termination and cancellation of existing subcontracts and debarment from future contracts as may be ordered by the Manager pursuant to Article 111, Division 2, Chapter 28 of the Revised Municipal Code and its implementing regulations.

3. Nothing herein is intended to relieve any contractor during the term of its contract from compliance with Article III, Division 2, Chapter 28 of the Revised Municipal Code, and the Equal Opportunity Clause of its contract with respect to matters not covered in these Bid Conditions.
4. Contractors must keep such records and file such reports relating to the provisions of these Bid Conditions as shall be required by the Office of Contract Compliance.
5. Requests for exemptions from these Bid Conditions must be made in writing, with justification, to the Manager of Public Works, City and County Building, Room 379, Denver, Colorado 80202, and shall be forwarded through and with the endorsement of the Director.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned HENSEL PHELPS CONSTRUCTION COMPANY, a corporation organized under the laws of the State of COLORADO, hereinafter referred to as the "Contractor" and _____, a corporation organized under the laws of the State of _____, and authorized to transact business in the State of Colorado, hereinafter referred to as Surety, are held and firmly bound unto the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, hereinafter referred to as the "CITY", in the penal sum of _____ AND 00/100 Dollars (\$_____ .00), lawful money of the United States of America, for the payment of which sum the Contractor and Surety bind themselves and their heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

WHEREAS, the above Contractor has, as of the date of execution listed on the contract signature page, entered into a written contract with the City for furnishing all labor, materials, equipment, tools, superintendence, and other facilities and accessories for the construction of 201840510, AGTS Station Door Upgrades Design, Denver International Airport, in accordance with the Technical Specifications, Contract Drawings and all other Contract Documents therefor which are incorporated herein by reference and made a part hereof, and are herein referred to as the Contract.

NOW, THEREFORE, the condition of this performance bond is such that if the Contractor:

1. Promptly and faithfully observes, abides by and performs each and every covenant, condition and part of said Contract, including, but not limited to, its warranty provisions, in the time and manner prescribed in the Contract, and
2. Pays the City all losses, damages (liquidated or actual, including, but not limited to, damages caused by delays in the performance of the Contract), expenses, costs and attorneys' fees, that the City sustains resulting from any breach or default by the Contractor under the Contract, then this bond is void; otherwise, it shall remain in full force and effect.

IN ADDITION, if said Contractor fails to duly pay for any labor, materials, team hire, sustenance, provisions, provender, or any other supplies used or consumed by said Contractor or its subcontractors in its performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment, all amounts due as the result of the use of such machinery, tools, or equipment in the prosecution of the work, the Surety shall pay the same in an amount not exceeding the amount of this obligation, together with interest as provided by law.

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that any and all changes in the Contract or compliance or noncompliance with the formalities in the Contract for making such changes shall not affect the Surety's obligations under this bond and the Surety hereby waives notice of any such changes.

(End of Page)

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this ____ day of _____, _____.

CONTRACTOR

By: _____
President

SURETY

By: _____
Attorney-in-Fact

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond.)

CITY AND COUNTY OF DENVER

By: _____
MAYOR

By: _____
Chief Executive Officer
Denver International Airport

APPROVED AS TO FORM:

KRISTIN M. BRONSON, Attorney for the
City and County of Denver

By: _____
Assistant City Attorney

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned HENSEL PHELPS CONSTRUCTION COMPANY, a corporation organized under the laws of the State of COLORADO, hereinafter referred to as the "Contractor" and _____, a corporation organized under the laws of the State of _____, and authorized to transact business in the State of Colorado, hereinafter referred to as Surety, are held and firmly bound unto the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, hereinafter referred to as the "CITY", in the penal sum of _____ AND 00/100 Dollars (\$_____.00), lawful money of the United States of America, for the payment of which sum the Contractor and Surety bind themselves and their heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

WHEREAS, the above Contractor has entered into a written contract with the City for furnishing all labor, materials, tools, superintendence, and other facilities and accessories for the construction of Contract No. 201840510, AGTS Station Door Upgrades Design, Denver International Airport, in accordance with the Technical Specifications, Contract Drawings and all other Contract Documents therefor which are incorporated herein by reference and made a part hereof, and are herein referred to as the Contract.

NOW, THEREFORE, the condition of this payment bond obligation is such that if the Contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing it or its subcontractors with labor and materials, rental machinery, tools, or equipment, used or performed in the prosecution of work provided for in the above Contract and shall indemnify and save harmless the City to the extent of any and all payments in connection with the carrying out of such Contract which the City may be required to make under the law, then this obligation shall be null and void, otherwise, it shall remain in full force and effect;

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that any and all changes in the Contract, or compliance or noncompliance with the formalities in the Contract for making such changes shall not affect the Surety's obligations under this bond and the Surety hereby waives notice of any such changes.

[END OF PAGE]

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this ____ day of _____, _____.

CONTRACTOR

By: _____
President

SURETY

By: _____
Attorney-in-Fact

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond.)

CITY AND COUNTY OF DENVER

By: _____
MAYOR

By: _____
Chief Executive Officer
Denver International Airport

APPROVED AS TO FORM:

KRISTIN M. BRONSON, Attorney for the
City and County of Denver

By: _____
Assistant City Attorney

Exhibit H



DENVER
THE MILE HIGH CITY

Office of Human Resources
Denver's Human Resource Agency

201 W. Colfax, Department 412

Denver, CO 80202

p: 720.913.5751

f: 720.913.5720

www.denvergov.org/humanresources

TO: All Users of the City of Denver Prevailing Wage Schedules

FROM: Susan Keller, Human Resources Technician, Classification & Compensation

DATE: Wednesday, March 14, 2018

SUBJECT: Latest Change to Prevailing Wage Schedules

Please be advised, prevailing wage rates for some building, heavy, highway, and residential construction trades have not been updated by the United States Department of Labor (DOL) since March 1, 2002. The Career Service Board, in their meeting held on April 21, 2011, approved the use of the attached supplemental wage rates until prevailing wage rates for these classifications of work are again published by the United States Department of Labor in accordance with the Davis-Bacon Act.

The attached Prevailing Wage Schedule is effective as of **Friday, March 2, 2018** and applies to the City and County of Denver for **BUILDING CONSTRUCTION PROJECTS** (does not include residential construction consisting of single family homes and apartments up to and including 4 stories) in accordance with the Denver Revised Municipal Code, Section 20-76(c).

General Wage Decision No. CO180030
Superseded General Decision No. CO20170030
Modification No. 2
Publication Date: 03/02/2018
(6 pages)

Unless otherwise specified in this document, apprentices shall be permitted only if they are employed pursuant to, and individually registered in, a bona fide apprenticeship program registered with the U.S. Department of Labor (DOL). The employer and the individual apprentice must be registered in a program, which has received prior approval, by the DOL. Any employer, who employs an apprentice and is found to be in violation of this provision, shall be required to pay said apprentice the full journeyman scale.

Attachments as listed above.

General Decision Number: CO180030 03/02/2018 CO30

Superseded General Decision Number: CO20170030

State: Colorado

Construction Type: Building

County: Denver County in Colorado.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/05/2018
1	01/12/2018
2	03/02/2018

ASBE0028-002 07/01/2017

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation).....	\$ 30.73	14.23

CARP0055-002 11/01/2016

	Rates	Fringes
CARPENTER (Drywall Hanging Only).....	\$ 26.25	8.64

CARP1607-001 06/01/2016

Rates Fringes

MILLWRIGHT.....\$ 31.38 12.70

ELEC0068-012 01/01/2018

Rates Fringes

ELECTRICIAN (Includes Low Voltage Wiring).....\$ 34.70 15.07

ELEV0025-001 01/01/2018

Rates Fringes

ELEVATOR MECHANIC.....\$ 43.66 32.645

FOOTNOTE:

- a. Vacation: 6%/under 5 years based on regular hourly rate for all hours worked. 8%/over 5 years based on regular hourly rate for all hours worked.
- b. PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Veterans' Day; Thanksgiving Day; the Friday after Thanksgiving Day; and Christmas Day.

ENGI0009-017 05/01/2017

Rates Fringes

POWER EQUIPMENT OPERATOR (Crane)

141 tons and over.....\$ 29.82	10.10
50 tons and under.....\$ 27.75	10.10
51 to 90 tons.....\$ 27.92	10.10
91 to 140 tons.....\$ 28.55	10.10

* IRON0024-009 11/01/2017

Rates Fringes

IRONWORKER, ORNAMENTAL.....\$ 27.45 11.99

* IRON0024-010 11/01/2017

Rates Fringes

IRONWORKER, STRUCTURAL.....\$ 27.45 11.99

PAIN0079-006 08/01/2017

Rates Fringes

PAINTER (Brush, Roller and Spray; Excludes Drywall Finishing/Taping).....\$ 20.50 8.41

PAIN0079-007 08/01/2017

	Rates	Fringes
DRYWALL FINISHER/TAPER.....	\$ 21.20	8.41

PAIN0419-001 07/01/2016		
	Rates	Fringes
SOFT FLOOR LAYER (Vinyl and Carpet).....	\$ 20.00	10.83

PAIN0930-002 07/01/2017		
	Rates	Fringes
GLAZIER.....	\$ 31.02	9.37

PLUM0003-009 06/01/2017		
	Rates	Fringes
PLUMBER (Excludes HVAC Duct, Pipe and Unit Installation).....	\$ 34.53	16.44

PLUM0208-008 06/01/2017		
	Rates	Fringes
PIPEFITTER (Includes HVAC Pipe and Unit Installation; Excludes HVAC Duct Installation).....	\$ 33.30	17.65

SFCO0669-002 04/01/2017		
	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 36.73	20.47

SHEE0009-004 07/01/2017		
	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct Installation; Excludes HVAC Pipe and Unit Installation).....	\$ 33.26	16.61

SUCO2013-006 07/31/2015		
	Rates	Fringes
BRICKLAYER.....	\$ 21.96	0.00

CARPENTER (Acoustical Ceiling		

Installation Only).....	\$ 22.40	4.85
CARPENTER (Metal Stud Installation Only).....	\$ 17.68	0.00
CARPENTER, Excludes Acoustical Ceiling Installation, Drywall Hanging, and Metal Stud Installation.....	\$ 21.09	6.31
CEMENT MASON/CONCRETE FINISHER...	\$ 20.09	7.03
LABORER: Common or General.....	\$ 14.49	5.22
LABORER: Mason Tender - Brick...	\$ 15.99	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 16.00	0.00
LABORER: Pipelayer.....	\$ 16.96	3.68
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 20.78	5.78
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 19.10	3.89
OPERATOR: Grader/Blade.....	\$ 21.50	0.00
ROOFER.....	\$ 16.56	0.00
TRUCK DRIVER: Dump Truck.....	\$ 17.34	0.00
WATERPROOFER.....	\$ 12.71	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Office of Human Resources
Supplemental rates
(Specific to the Denver projects)
Revision Date: 11-28-2016

<u>Classification</u>		<u>Base</u>	<u>Fringe</u>
Boilermaker		\$30.97	\$21.45
Iron Worker, Reinforcing		\$18.49	\$3.87
Laborer: Concrete Saw		\$13.89	-
Paper Hanger		\$20.15	\$6.91
Plasterer		\$24.60	\$12.11
Plaster Tender		\$10.79	-
Power Equipment Operator	Concrete Mixer - Less than 1 yd	\$23.67	\$10.67
	Concrete Mixer - 1 yd and over	\$23.82	\$10.68
	Drillers	\$23.97	\$10.70
	Loader - up to and incl 6 cu yd	\$23.67	\$10.67
	Loaders - over 6 cu yd	\$23.82	\$10.68
	Mechanic	\$18.48	-
	Motor Grader	\$23.97	\$10.70
	Oilers	\$22.97	\$10.70
	Roller	\$23.67	\$10.67
Tile Finisher		\$20.87	\$8.42
Tile Setter		\$26.83	\$8.48
Truck Driver	Flatbed	\$19.14	\$10.07
	Semi	\$19.48	\$10.11

- **Boilermaker** – Perform industrial work
- **Caulker** - Receive rate prescribed for craft performing operation to which caulking is incidental .i.e. glazier, painter, brick layer, cement mason.
- **Ironworker – Reinforcing** – Install, tie, and handle all rebar
 - Reinforce with carbon fiber material, includes cleaning, sanding of surface, and application of epoxy and fiber material
 - Plasterers perform fireproofing of this material
- **Laborer** – Concrete Saw
 - Perform concrete coring
 - Perform radar and x-ray for coring or boring for utility location
- Use the “Laborer—Common”, for General Housekeeping, Demolition, Final Cleanup and Indoor Fence Installer
- **Paper Hanger**
 - Install exterior plastic wall covering
 - Install regular or vinyl wallpaper
- **Plasterer**
 - Apply spray-on fireproofing
 - Fireproofing of Carbon Fiber material

- **Plaster Tender**
 - There is no formal ratio for Plasterer Tenders to Plasterers
 - Plaster Tender is the laborer for Plasterer
 - Plaster Tender may mix mud, move hoses, clean up over spray for Plasterers
 - Plaster Tender do not patch plaster or fireproofing by hand, trowel, sprayer, or any other means
 - Plaster Tender may use forklifts/backhoes as a tool of the trade
 - Erect trade-specific scaffolding

- **Power Equipment Operator**
 - Concrete mixers
 - Less than 1 yd.
 - Concrete placement pumps under 8"
 - 1 yd. and over
 - Concrete placement pumps over 8"
 - Loader up to and including 6 cubic yards
 - Loaders over 6 cubic yards
 - Motor grader
 - Roller
 - Drillers
 - Oilers
 - M

- **Tile Setter**
 - Install granite or other stone countertops
 - Setting sheets of Swanstone (imitation tile or stone product)
 - Marble Masons
 - Sandblast lettering into exterior granite and marble
 - Spreads the mud on the floor, screed the mud flat, and floats the mud

- **Tile Finisher**
 - Finishers are the laborers for the tile setters
 - Common laborers are not used for cleanup after tile setters or for any other use
 - Finishers mix mud, put tiles out, or cut tiles
 - Finishers may grind floors and bases

- **Truck Driver**
 - Flatbed
 - Semi

- Trade classification workers cannot be classified as common laborers for performing incidental cleanup from the installation of their craft. Common Laborers perform final cleanup of the entire jobsite.
- Go to www.denvergov.org/Auditor to view the Prevailing Wage Clarification Document for a list of complete classifications used.