

AMENDATORY AGREEMENT

This **AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **APEX COMPANIES, LLC**, a Delaware limited liability company, authorized to do business in Colorado, with an address of 1746 Cole Boulevard, Suite 250, Lakewood, Colorado 80401 (the “Consultant”), jointly (“the Parties”).

RECITALS:

WHEREAS, the Mayor declared a state of local disaster emergency on March 12, 2020, as amended pursuant to C.R.S. 24-33.5-701, et seq., brought on by the spread of COVID-19, the Governor of the State of Colorado declared a Disaster Emergency (D 2020 003) dated March 11, 2020, as amended on the same basis, and the President of the United States issued a Declaration of Emergency on March 13, 2020, as amended due to the COVID-19 crisis;

WHEREAS, the City awarded the Agreement to the Consultant as a result of a competitive selection process conducted by the City in accordance with its rules and procedures;

WHEREAS, to respond to the COVID-19 crisis in the City and County of Denver, Colorado, and pursuant to the declarations of emergency described above, the City wishes to retain Consultant for on-call abatement and remediation consulting services;

WHEREAS, the City wishes such work to be performed on an expedited, emergency basis;

WHEREAS, the Parties entered into an Agreement dated June 1, 2021, (the “Agreement”) to perform, and complete all of the services and produce all the deliverables set forth in Section 3, **Services to be Performed** (“Services”), and to the City’s satisfaction; and

WHEREAS, the Parties wish to amend the Agreement to increase the maximum contract amount, update paragraph 21-No Employment of Illegal Aliens, and update paragraph 28-No Discrimination in Employment.

NOW THEREFORE, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. Section 5 of the Agreement entitled “**COMPENSATION AND PAYMENT**” Sub-section d. (1) entitled “**Maximum Contract Amount:**” is hereby deleted in its entirety and replaced with:

“d. **Maximum Contract Amount:**

(1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Consultant beyond that specifically described Paragraph 3 (Services to be Performed). Any services performed beyond those in Paragraph 3 are performed at Consultant's risk and without authorization under the Agreement."

2. Section 21 of the Agreement entitled "**NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:**" is hereby deleted in its entirety and replaced with:

"21. NO EMPLOYMENT OF WORKERS WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THE AGREEMENT:

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

b. The Consultant certifies that:

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

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

(3) It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Consultant that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

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

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

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

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

3. Section 28 of the Agreement entitled “**NO DISCRIMINATION IN EMPLOYMENT**” is hereby deleted in its entirety and replaced with:

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

4. As herein amended, the Agreement is affirmed and ratified in each and every particular.

5. This Amendatory Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

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Contract Control Number: ESEQD-202263456-01 / ENVHL-202158620-01
Contractor Name: APEX COMPANIES, LLC

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

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver


By:

By:

By:

Contract Control Number:
Contractor Name:

ESEQD-202263456-01 / ENVHL-202158620-01
APEX COMPANIES, LLC

By:  _____
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Name: Bjorn Helgeson
(please print)

Title: Division Manager
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)