

## SECOND AMENDATORY AGREEMENT

THIS SECOND AMENDATORY AGREEMENT is made \_\_\_\_\_, 2010 (the "Effective Date") between the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado (the "City") and LVI ENVIRONMENTAL SERVICES, INC., a Colorado corporation, with its principal place of business located at 5150 Fox Street, Denver, Colorado 80216 (the "Contractor").

### RECITALS

A. The City and the Contractor entered into an Agreement dated November 17, 2009 and an Amendatory Agreement dated September 8, 2010, concerning asbestos, lead-based paint and mold abatement for the Department of Environmental Health's ("DEH") (the "Agreement").

B. The parties wish to amend the Agreement to increase funding as set forth below.

NOW, THEREFORE, the parties hereby agree as follows:

1. Section 13 of the Agreement, entitled "MAXIMUM CONTRACT AMOUNT", is deleted and replaced in its entirety by the following provision:

"13. MAXIMUM CONTRACT AMOUNT. Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **ONE MILLION FOUR HUNDRED EIGHTY THOUSAND** (\$1,480,000) (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 Contractor beyond that specifically authorized in an NTP or Change Order thereto. Any services performed beyond those set forth therein are performed at Contractor's risk and without authorization under the Agreement."

2. Except as amended in the Second Amendatory Agreement, the Agreement is affirmed, and ratified in each and every particular.

3. The Second Amendatory Agreement is not effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

4. The Contractor assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution, or action passed or taken, to enter into the Second Amendatory Agreement. The person or persons signing and executing the Second Amendatory Agreement on behalf of the Contractor hereby warrants and guarantees that the Contractor has fully authorized he or she or them to execute the Second Amendatory Agreement on behalf of the Contractor and to validly and legally bind the Contractor to all terms, performances and provisions in the Agreement as amended by the Second Amendatory Agreement set forth herein.

5. The Second Amendatory Agreement may be executed in two (2) counterparts, each of which is an original and together constitute the same instrument.

09-970-B

**[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties have executed this Second Amendatory Agreement as of the date first written above.

ATTEST:

CITY AND COUNTY OF DENVER:

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

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

APPROVED AS TO FORM:  
DAVID R. FINE, City Attorney for the  
City and County of Denver

RECOMMENDED AND APPROVED:  
By: \_\_\_\_\_  
Manager, Department of Environmental  
Health

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

REGISTERED AND COUNTERSIGNED:

By: \_\_\_\_\_  
Manager of Finance  
Contract Control No. OC91385(2)

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

"CITY"

ATTEST: [If required by corporate procedures]

LVI ENVIRONMENTAL SERVICES, INC.  
Taxpayer (IRS) I.D. No. 13-3877877

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

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

Title: Branch Controller

Name: BRET BRINCAERT NSC  
(please print)

Title: Vice President

"CONTRACTOR"