

AGREEMENT

THIS AGREEMENT (“Agreement”) is made and entered into between the CITY AND COUNTY OF DENVER, acting by and through its BOARD OF WATER COMMISSIONERS (“Board”), a municipal corporation of the State of Colorado whose address is 1600 W. 12th Avenue, Denver, Colorado 80204, and **Verify the correct legal name of the Contractor and insert here** (“Contractor”), whose address is **Insert address of the Contractor**. The Board and the Contractor agree as follows:

1. Scope of Work. The Contractor agrees to provide work to the Board in accordance with Exhibit A, attached and incorporated (the “Work”). The Work specifically includes any and all deliverables provided to the Board under this Agreement. Generally, the Contractor will provide management of installation of water saving fixtures for large multi-family properties.

2. Time of Commencement and Completion of Work. The Board shall not dictate times of performance of the Work, except that the Contractor shall commence the Work as soon as necessary after receipt of a Notice to Proceed, if required by this Agreement, or else after the effective date of this Agreement. The Contractor shall complete the Work no later than **Insert date by which Work must be completed**. The Contractor and the Board must agree upon any extensions of the completion date in a written amendment.

3. Contractor Responsibility. The Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all studies, reports and other Work performed under this Agreement. The Contractor is responsible for providing the materials, equipment, training and tools necessary for performance of the Work. The Contractor represents that all Work performed under this Agreement shall be performed with the usual thoroughness and competence and in accordance with the standards of care of the Contractor’s profession prevailing in Colorado. Without additional compensation, and without limiting the Board’s remedies, the Contractor shall promptly remedy and correct any errors, omissions or other deficiencies in the Work not meeting that standard of care, including any breaches of the representations in this Agreement.

4. Confidentiality of Information. **IF THE CONTRACTOR NON-DISCLOSURE TERMS AND CONDITIONS WILL BE ATTACHED AS AN EXHIBIT, USE THE FOLLOWING LANGUAGE FOR THIS PARAGRAPH:** The Non-Disclosure Terms and Conditions attached as Exhibit ___ are incorporated into this Agreement. **IF THE CONTRACTOR NON-DISCLOSURE TERMS AND CONDITIONS WILL NOT BE ATTACHED, USE THE FOLLOWING LANGUAGE FOR THIS PARAGRAPH:** The Contractor shall retain in strictest confidence all information furnished by the Board and

the results of any reports or studies conducted as a result of this Agreement, along with all supporting work papers and any other substantiating documents. The Contractor shall not disclose such information to others without the prior written consent of the Board, except as required by law.

5. Compensation and Invoicing. The Board shall compensate the Contractor for Work performed under this Agreement as described in this paragraph. The compensation for the Contractor provided by this Agreement is entire and complete. The Contractor has not received and will not receive any other compensation in connection with this Agreement. The Contractor warrants that it has not paid or promised to pay any compensation to anyone (except Board-approved subcontractors and the Contractor's officers and employees) in order to obtain this Agreement.

SELECT ONE OF THE THREE CHOICES BELOW FOR TYPE OF PAY. IF THE CONTRACTOR HAS PROVIDED A LENGTHY PROPOSAL OR SCOPE OF WORK FOR EXHIBIT A THAT INCORPORATES COMPENSATION TERMS, DENVER WATER MAY INSERT A REFERENCE TO EXHIBIT A HERE AND DELETE THE FOLLOWING THREE CHOICES FOR TYPE OF PAY. HOWEVER, IF THIS AGREEMENT IS REQUIRED TO STATE A TOTAL CONTRACT AMOUNT, PLEASE KEEP THE 1-2 SENTENCES AT THE END OF THIS SECTION THAT START WITH "THE TOTAL COMPENSATION UNDER THIS AGREEMENT ..." FOR MORE INFORMATION ABOUT AGREEMENTS THAT MIGHT NOT REQUIRE A TOTAL CONTRACT AMOUNT, SEE THE CONTRACT AND AMENDMENT PREPARATION PROCEDURES ON INFLOW:

<http://inflow.denverwater.org/r/Documents/Contract%20and%20Amendment%20Preparation%20Procedures.pdf>

CHOICE 1 – if the Contractor is to be paid based on an hourly rate

- a. The Contractor will be paid an hourly rate that includes labor, payroll, all overhead expenses, and profit. Overhead expenses include charges for clerical, administrative, accounting, legal, and computer personnel and may not be billed separately. The hours billed by the Contractor shall not exceed hours actually worked on the Work, as shown in the Contractor's timekeeping records, and shall be limited to the hours actually paid to the employee for the Work. The following chart identifies the particular persons or classes of persons who will perform Work under this Agreement and the hourly rate for each. The Contractor shall not bill the Board for persons or classes of persons not listed below or at hourly rates different from those specified below.

Insert hourly rates for persons who will perform Work under this Agreement and names of those persons if appropriate.

- b. The Contractor shall provide invoices each month for Work accomplished through the last day of the preceding month. The Contractor's invoices shall include a description of the Work performed by and the hours worked by each person for the billing period. The Contractor must submit documentation supporting the charges in the invoice, which must be consistent with this Agreement, and must include the contract number of this Agreement on each invoice.

CHOICE 2 – if the Contractor is to be paid a lump sum

- a. Upon completion of the Work, the Contractor will be paid a lump sum not to exceed \$**Insert lump sum amount**.
- b. The Contractor shall provide an invoice upon completion of the Work. The Contractor must submit documentation supporting the charges in the invoice, which must be consistent with this Agreement, and must include the contract number of this Agreement on each invoice.

CHOICE 3 – if the Contractor is to be paid per work product

- a. The Contractor will be paid the respective amount listed below upon completion of each work product described.

Insert list of work products and amount to be paid for each
- b. The Contractor shall provide an invoice upon completion of each work product. The Contractor must submit documentation supporting the charges in the invoice, which must be consistent with this Agreement, and must include the contract number of this Agreement on each invoice.

SELECT THE FOLLOWING IF THE CONTRACTOR WILL NOT BE REIMBURSED FOR OUT-OF-POCKET COSTS; REMOVE THE FIRST SENTENCE OF THIS PARAGRAPH IF THE AGREEMENT IS NOT REQUIRED TO STATE A TOTAL CONTRACT AMOUNT:

- c. The total compensation under this Agreement shall not exceed \$**Insert not-to-exceed amount**. There are no reimbursable costs associated with this Agreement.

SELECT THE FOLLOWING SUBPARAGRAPHS IF THE CONTRACTOR WILL BE REIMBURSED FOR OUT-OF-POCKET COSTS:

- c. The Contractor will be paid for the following out-of-pocket costs, as long as they are approved in advance by the Board:

Insert those reimbursable costs that will be paid in addition to the hourly rate. Approved costs should not include more than the following: travel expenses; long distance telephone calls; postage; faxes; express delivery services; printing and reproduction; photocopying; materials specified in the Agreement; and subcontracted work.

The Contractor shall bill for the out-of-pocket costs listed above at actual costs without markup. For any out-of-pocket costs that exceed \$200.00, this amount may need to be adjusted based on the size of the contract the Contractor shall provide a copy of the underlying invoice, travel voucher or other document supporting the out-of-pocket cost.

REMOVE THIS PARAGRAPH IF THE AGREEMENT IS NOT REQUIRED TO STATE A TOTAL CONTRACT AMOUNT:

- d. The total compensation under this Agreement, including out-of-pocket costs, shall not exceed \$Insert not-to-exceed amount.

6. Payment. Payments shall be based upon the Contractor's verified progress in completing the Work. Unless the Contractor has not properly performed the Work, invoices will be paid within thirty (30) days of receipt. The Board has the right to refuse to pay all or a portion of an invoice that is inconsistent with this Agreement; all undisputed portions of the invoice shall be paid. The Board may delay payment until it can verify the accuracy of the invoice, obtain releases or waivers with respect to Work covered in the invoice (and with respect to Colo. Rev. Stat. Article 26 of Title 38 if applicable), or resolve a dispute with the Contractor regarding an invoice. **The Board will not issue payments unless the Contractor has current insurance coverage in accordance with this Agreement.** Checks shall be made payable to the trade or business of the Contractor.

7. Records and Audits. The Contractor shall at all times maintain a system of accounting records in accordance with its normal procedures, together with supporting documentation for all Work, purchases, and billings under this Agreement. The Contractor shall retain all such accounting records and documentation for at least two (2) years after final payment. The Board has the right to audit the accounting records and documentation of Contractor related to the Work at any time during the period of this Agreement and for two (2) years after final payment. The Contractor shall refund to the Board any charges determined by the Board's audit to be inconsistent with this Agreement.

8. Changes in Work. The Board has the right to order additions, deletions, or changes in the Work at any time, so long as such changes are within the general scope of Work covered by this Agreement. Requests for material changes in the Work may be made by the Board orally or in writing; however, oral requests shall be confirmed by a written request within ten (10) business days after the oral request. If the Board directs

the Contractor to proceed with a material change, the Contractor shall be paid for the change as agreed to by the parties.

9. Independent Contractor.

- a. The Contractor is customarily engaged in an independent trade, occupation, profession or business related to the Work, and nothing in this Agreement requires the Contractor to work exclusively for the Board during the term of the Agreement.
- b. Nothing in this Agreement shall be construed to establish the Contractor as an agent or employee of the Board for any purpose. The Contractor and its employees, agents, and subcontractors shall in no way represent themselves to third parties as agents or employees of the Board in performance of the Work.
- c. The Board shall not oversee the Work of the Contractor or instruct the Contractor on how or when to perform the Work, except that the Board and the Contractor have agreed to a completion date for the Work. The Contractor shall in all respects be an independent contractor of the Board in its performance of the Work.
- d. THE CONTRACTOR ACKNOWLEDGES THAT IT IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE OR WORKERS' COMPENSATION BENEFITS AS A RESULT OF PERFORMANCE OF THE WORK FOR THE BOARD.
- e. THE CONTRACTOR ACKNOWLEDGES THAT IT IS OBLIGATED AND SOLELY LIABLE TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED PURSUANT TO THIS AGREEMENT, WHICH MAY INCLUDE FEDERAL AND STATE INCOME AND WITHHOLDING TAXES, UNEMPLOYMENT TAXES, FICA TAXES AND WORKERS' COMPENSATION PAYMENTS AND PREMIUMS APPLICABLE TO THIS AGREEMENT OR ANY WORK PROVIDED. THE CONTRACTOR SHALL INDEMNIFY THE BOARD FOR ANY LIABILITY RESULTING FROM NONPAYMENT OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.

10. Insurance.

PLEASE READ THIS CAREFULLY. THE CONTRACTOR WILL NOT BE PAID UNLESS THE FOLLOWING INSURANCE REQUIREMENTS ARE MET.

The Contractor shall maintain the following insurance in full force and effect

during the full term of this Agreement. The Contractor shall provide to the Board certificates of insurance (and renewals thereof) demonstrating that the following insurance requirements have been met.

a. Commercial General Liability Insurance:

Commercial general liability insurance with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Such insurance shall include the City and County of Denver, acting by and through its Board of Water Commissioners, as additional insured and shall be primary and non-contributing with respect to any insurance or self-insurance program of the Board.

b. Automobile Liability Insurance:

Contractor shall maintain automobile liability insurance as required by Colorado law. The Board does not require a certificate of insurance unless this subparagraph (b) requires insurance that exceeds the statutory requirements.

In addition to the statutory requirements, Contractor shall maintain automobile liability insurance with limits not less than \$1,000,000 per occurrence for owned, non-owned and hired vehicles used in the performance of Work under this Agreement.

c. Workers' Compensation Insurance:

(DENVER WATER SHOULD DELETE THE TWO ALTERNATIVES BELOW THAT DO NOT APPLY.)

ALTERNATIVE 1:

The Contractor is located in Colorado and maintains workers' compensation insurance, as required under the laws of the State of Colorado. **IF THE CONTRACTOR IS A COLORADO SOLE PROPRIETOR WITH EMPLOYEES, SELECT THIS ALTERNATIVE.**

ALTERNATIVE 2:

The Contractor is located in Colorado and does not maintain workers' compensation insurance because either the Contractor has rejected such coverage by waiver pursuant to C.R.S. § 8-41-202 or the Contractor is a sole proprietor without employees and is not performing construction work under this Agreement. If the Contractor has waived coverage as described above, the Contractor will provide the Board with evidence of its waiver along with the other certificates of insurance. **IF THE CONTRACTOR IS A SOLE PROPRIETOR WITHOUT EMPLOYEES, SELECT THIS ALTERNATIVE. HOWEVER, IF THE CONTRACTOR**

ALSO IS DOING CONSTRUCTION WORK, DENVER WATER REQUIRES EVIDENCE OF WORKERS' COMPENSATION INSURANCE (CHOOSE ALTERNATIVE 1 ABOVE) OR WAIVER (CHOOSE ALTERNATIVE 2). CONSTRUCTION WORK IS DEFINED IN C.R.S. § 8-41-404(5)(b); THE DENVER WATER REPRESENTATIVE SHOULD CONSULT WITH THE LEGAL DIVISION TO DETERMINE WHETHER THE WORK MEETS THIS DEFINITION.

ALTERNATIVE 3:

The Contractor is located outside of Colorado and does not maintain workers' compensation insurance effective in Colorado. The Contractor warrants that during the term of this Agreement it will not hire employees in Colorado or transfer employees to Colorado without maintaining workers' compensation insurance, as required by Colorado law, in full force and effect during the full term of this Agreement.

- d. Other Requirements:
- 1) The Contractor's insurers shall maintain an A.M. Best rating of A-, VII or better.
 - 2) All self-insured retentions or deductibles must be declared and acceptable to the Board.
 - 3) Thirty (30) days' advance written notice of cancellation shall be provided to the Board, except for ten (10) days' advance written notice in the event of cancellation due to non-payment of premium.
- e. The Contractor shall provide copies of insurance policies upon request of the Board and in redacted form if necessary to protect confidential information.
- f. The Board reserves the sole discretion to accept alternative types of insurance.

11. Compliance with Laws. In performing this Agreement, the Contractor shall comply with all applicable laws, rules, and regulations, including, but not limited to, the Colorado Workers' Compensation Act and federal and state tax laws. The Contractor certifies that it has complied, and during the term of this Agreement will continue to comply, with the Immigration Reform and Control Act of 1986.

The signature of the Contractor on this Agreement: (1) certifies that the Contractor is not a natural person unlawfully present in the United States; and (2) also certifies the statements below *if this is a public contract for services as defined in Colo.*

Rev. Stat. § 8-17.5-101, et seq., and the Contractor utilizes subcontractors or employees in the Contractor's business.

- a. The Contractor shall not:
 - 1) Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
 - 2) Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
- b. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the e-verify program or the department program (as defined in Colo. Rev. Stat. § 8-17.5-101, et seq.). The Contractor may not use either the e-verify program or the department program procedures to undertake preemployment screening of job applicants while this Agreement is being performed.
- c. If the Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall:
 - 1) Notify the subcontractor and the Board within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - 2) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-subparagraph 1) of this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- d. The Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to state law.
- e. The Contractor acknowledges that in the event the Contractor violates any of the provisions of the foregoing subparagraphs a – d, the Board may terminate this Agreement for breach of contract. If this Agreement is so

terminated, the Contractor shall be liable for actual and consequential damages to the Board.

12. Safety and Security. The Contractor must comply with applicable safety and occupational health standards, specifications, reporting, and any other relevant requirements. The Contractor also must check in with the Board's Security personnel at each location, where applicable; display appropriate identification at all times while on the Board's premises; and notify the Board's Security personnel in writing in advance of any anticipated third-party deliveries with the name of the delivery person and the approximate time of arrival.

13. Personnel Screening.

WORK INVOLVING SECURITY CONCERNS

At least five (5) working days before assigning an employee or agent to perform duties under this Agreement that require the employee or agent to work under circumstances presenting security concerns or to have access to the Board's sensitive information, proprietary computer programs, software or servers, the Contractor will submit the employee's or agent's name to the Board and certify on the Board-provided Certification of Personnel Screening form that no more than one (1) year prior to the assignment it performed a background check on the employee or agent, including a review of criminal history, and determined that the employee or agent does not pose a risk to persons or property. Contractor's determination should be based on guidance provided by the U.S. Equal Employment Opportunity Commission regarding the use of arrest and conviction history in employment decisions, which requires a weighing of (1) the nature and gravity of the offense or conduct, (2) the time that has passed since the offense, conduct or the employee's completion of any sentence given as a result of the offense, and (3) the nature of the job held or sought. Background checks must include a Colorado Bureau of Investigation (CBI) Criminal History Check, and, if the employee or agent has lived outside the State of Colorado or the United States during the last five (5) years, a criminal history check from each state or country of residence. For employees or agents who will have access to the Board's financial records and/or accounting processes, including purchasing, payables, receivables, and treasury or cash management, the Contractor also will conduct a credit history check on the employee or agent and certify on the Board-provided Certification of Personnel Screening form that the Contractor has determined that the employee or agent does not pose a risk to the Board. The Board reserves the right to direct the Contractor to assign another employee or agent, meeting the requirements of this paragraph, to perform the Work if the Board has reason to believe that during the term of the Agreement the assigned employee or agent engaged in criminal activity or was involved in financial improprieties, to be determined by the Board in its sole discretion.

ALTERNATIVE B: IF THE CONTRACTOR IS AN INDIVIDUAL WHO WILL PERFORM WORK UNDER CIRCUMSTANCES THAT RAISE SECURITY CONCERNS (SUCH AS ENTERING PRIVATE RESIDENCES ON DENVER WATER'S BEHALF, OR PERFORMING WORK THAT GIVES ACCESS TO CRITICAL FACILITIES OR OPERATIONS OR HAS THE POTENTIAL TO CAUSE SERIOUS DAMAGE TO CRITICAL DENVER WATER FACILITIES OR OPERATIONS, OR TO HAVE ACCESS TO ANY CONFIDENTIAL, FINANCIAL, CUSTOMER, OR SECURITY-RELATED INFORMATION MAINTAINED BY DENVER WATER, PROPRIETARY COMPUTER PROGRAMS OR SOFTWARE, OR SERVERS), SELECT THIS ALTERNATIVE AND HAVE THE CONTRACTOR FILL OUT THE CONSENT TO PERFORM BACKGROUND CHECKS FORM AT THE END OF THIS TEMPLATE. AT LEAST 5 DAYS BEFORE THE AGREEMENT IS TO BE FULLY EXECUTED, SEND THE SIGNED FORM TO SAFETY & SECURITY TO CONDUCT THE BACKGROUND CHECK AND, IF NECESSARY, TO HUMAN RESOURCES TO CONDUCT THE CREDIT CHECK. THE AGREEMENT MAY NOT BE FULLY EXECUTED UNTIL SAFETY & SECURITY HAS APPROVED THE BACKGROUND CHECK AND CREDIT CHECK.

As a precondition to entering this Agreement, the Contractor gave the Board consent to conduct a background check on the Contractor, including a Colorado Bureau of Investigation (CBI) Criminal History Check, and, if the Contractor has lived outside the State of Colorado or the United States during the last five (5) years, consent to obtain a criminal history check from each state or country of residence. If the Contractor will have access to the Board's financial records and/or accounting processes, including purchasing, payables, receivables, and treasury or cash management, the Contractor also consented to a credit history check. The Board has reviewed and approved the results of the background check and, if applicable, the credit history check. The Board reserves the right to terminate this Agreement if it has reason to believe that during the term of the Agreement the Contractor engaged in criminal activity or was involved in financial improprieties, to be determined by the Board in its sole discretion.

14. Liability. The Contractor agrees to provide a defense and pay any damages and costs for any liability or claim of whatever nature arising in any way out of this Agreement, including but not limited to any claims that the Creations, Prior Works or the Work infringe the intellectual property rights of a third party, to the extent caused by any negligent act or omission or willful misconduct of the Contractor or the Contractor's officers, subcontractors, agents, or employees.

15. Standards of Conduct – Nondiscrimination and Respectful Workplace. The Contractor agrees not to discriminate against any Board employee, or potential subcontractor or supplier because of race, color, religion, age, national origin, gender, sexual orientation, pregnancy, military status, marital status, or disability. The Contractor further agrees not to conduct business in a manner that brings discredit to the Board or creates a hostile or disrespectful work environment for Board employees,

Board customers, or other contractors performing work for the Board. The Board reserves the right at its sole discretion to terminate this Agreement if the Contractor is an individual, or to direct the Contractor to assign another employee or agent to perform the Work, if the Board has reason to believe that during the term of the Agreement the Contractor, or the assigned employee or agent engaged in activity prohibited by this section.

16. Small Business Enterprises; Minority- and Women-Owned Business Enterprises. The Board recognizes the desirability, need and importance to the City and County of Denver of encouraging the development of Small Business Enterprises (“SBEs”) and Minority- and Women-Owned Business Enterprises (“MWBEs”). The Contractor agrees to make a good faith effort to involve SBEs and MWBEs in the Work if and when the opportunity arises.

17. Acceptance Not Waiver. The Board’s approval of studies, drawings, designs, plans, specifications, reports, computer programs and other work or materials does not in any way relieve the Contractor of responsibility for the technical accuracy of the Work. The Board’s approval or acceptance of, or payment for, any Work is not a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

18. Termination or Suspension. The Board reserves the exclusive right to terminate or suspend all or any portion of the Work by giving fourteen (14) days’ written notice to the Contractor. If any portion of the project shall be terminated or suspended, the Board shall pay the Contractor equitably for all Work properly performed pursuant to this Agreement. If the project is suspended and the Contractor is not given an order to resume work within sixty (60) days from the effective date of the suspension, this Agreement will be considered terminated. Upon termination, the Contractor shall immediately deliver to the Board any documents then in existence that have been prepared by the Contractor pursuant to this Agreement and that have been paid for by the Board.

19. Default. Every term and condition of this Agreement is a material element of this Agreement. In the event either party should fail or refuse to perform according to the material terms of this Agreement, such party may be declared in default by the other party by a written notice.

20. Remedies. In the event a party has been declared in default, such defaulting party shall be allowed a period of fifteen (15) days within which to correct, or commence correcting, the default. In the event that the default has not been corrected or begun to be corrected, or the defaulting party has ceased to pursue the correction with due diligence, the party declaring default may elect to (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance; or (c) avail itself of any other remedy at law or equity. In the event the Contractor fails or neglects to perform the Work in accordance with this Agreement, the

Board may elect to correct such deficiencies and charge the Contractor for the full cost of the corrections.

21. Force Majeure. The parties shall not be responsible for any failure or delay in the performance of any obligations under this Agreement caused by acts of God, flood, fire, war or public enemy. Any declared force majeure that remains in effect for longer than ninety (90) days entitles either party to unilaterally terminate this Agreement.

22. Assignment and Subcontracts. The Contractor may not assign this Agreement or any right or liability of this Agreement or enter into any subcontract or amend any subcontract related to this Agreement without prior written consent of the Board. Any subcontract must include language similar to the Records and Audits paragraph of this Agreement, requiring records to be adequate and available for Board audit. This Agreement shall bind and inure to the benefit of the parties and their respective successors and assigns. This Agreement is intended to benefit only the parties, and neither subcontractors nor suppliers of the Contractor nor any other person or entity is intended by the parties to be a third-party beneficiary of this Agreement.

23. Severability. If any provision of this Agreement is determined by a court having jurisdiction to be unenforceable to any extent, the rest of that provision and the rest of this Agreement will remain enforceable to the fullest extent permitted by law.

24. Venue and Governing Law. This Agreement shall be deemed performable in the City and County of Denver, notwithstanding that the parties may find it necessary to take some action outside the City and County. The sole venue for any dispute resulting in litigation shall be in the District Court in and for the City and County of Denver. This Agreement shall be governed by and construed under the laws of the State of Colorado.

25. Notice and Contact. The parties shall contact the persons listed below for all matters related to administration of this Agreement. All notices required or given under this Agreement shall be in writing and shall be deemed effective: (a) when delivered personally to the other party; or (b) seven (7) days after posting in the United States mail, first-class postage prepaid, properly addressed as follows; or (c) when sent by e-mail. If notice is provided by e-mail, the notifying party must follow up with a hard copy of the notice sent by United States mail; however, the notice will be effective as of the original e-mail date.

If to the Contractor:

Insert name of the Contractor
Insert mailing address of the Contractor
Insert e-mail address of the Contractor

If to the Board:

Insert title of person responsible for contract

Denver Water Department
1600 West 12th Avenue
Denver, Colorado 80204

Insert e-mail address of person responsible for contract

or such other persons or addresses as the parties may have designated in writing.

26. Charter of the City and County of Denver. This Agreement is made under and conformable to Article X of the Charter of the City and County of Denver, which controls the operation of the Denver Municipal Water System. The Charter provisions are incorporated by this reference and supersede any apparently conflicting provisions otherwise contained in this Agreement.

27. Governmental Immunity Act. The parties understand and agree that the Board is relying upon, and has not waived, the monetary limitations of \$350,000 per person, \$990,000 per occurrence, and all other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as it may be amended from time to time.

28. Entire Agreement. This Agreement constitutes the entire agreement between the Board and the Contractor and replaces all prior written or oral agreements and understandings. It may be altered, amended, or repealed only by a duly executed written instrument.

29. Effective Date. This Agreement shall become effective on the date it is fully signed by the Board.

THEREFORE, the parties have executed this Agreement. This Agreement must have the signature of an authorized representative of the Contractor.

ATTESTED:

**CITY AND COUNTY OF DENVER,
acting by and through its
BOARD OF WATER COMMISSIONERS**

By: _____
Secretary

By: _____
President

DATE: _____

Insert Name of Contractor and/or Contract No.

APPROVED:

By: _____
Chief of External Affairs

REGISTERED AND COUNTERSIGNED:
CITY AND COUNTY OF DENVER

By: _____
Timothy M. O'Brien, CPA
Auditor

APPROVED AS TO FORM:

By: _____
Office of General Counsel

THIS AGREEMENT IS ACCEPTED BY:

CONTRACTOR: Insert name of the Contractor

By execution, signer certifies s/he is authorized to bind the Contractor to the terms of this Agreement.

By: _____

DATE: _____

TITLE: _____
[for other than individual]

For Board records only, Contractor shall check the applicable box(es) below:

- Contractor is a Small Business per federal SBA guidelines
- Contractor is not a Small Business per federal SBA guidelines
- Contractor is a Minority-owned Business Enterprise (MBE) and/or Women-owned Business Enterprise (WBE) per _____ (name of certifying entity)
- Contractor is not an MBE or WBE
- Contractor elects not to answer this question

If Contractor is an MBE and/or WBE, Contractor must submit evidence of certification from an agency such as the City and County of Denver or the Mountain Plains Minority Supplier Development Council.

EXHIBIT A SCOPE OF WORK

The Contractor shall perform the following tasks:

Insert description of the scope of work, reiterate work requirements from RFP, or attach the scope of work from the Contractor's proposal.

Optional provision for Denver Water Engineering: The Contractor agrees to follow all provisions of the Board's Capital Project Procedures Manual, including but not limited to 30%, 60%, and 90% deliverables, with emphasis on colored drawings at 90% submittal time. The Contractor agrees to adhere to the Board's drafting and specification formatting standards.

If contract is for design work, insert the following: The Contractor shall use the Board's furnished standard electronic 22" x 34" drawing border and shall adhere to the Board's drafting standards.

CERTIFICATION OF PERSONNEL SCREENING BY CONTRACTOR/CONTRACTOR

To be completed by the Board's Contract Administrator:

Contract No: _____ Contractor/Contractor: _____

The work under the Agreement involves:

(Check one or more and describe the duties in the spaces provided, and check the corresponding numbered box in the Contractor/Contractor section below.)

1. Operating a Board vehicle *(driving record and license check required)*
 2. Performing work involving security concerns. Describe duties: _____

(criminal background check required)
 3. Accessing Board's financial records or accounting processes *(credit check required)*
 4. Performing safety-sensitive work. Describe duties: _____

(criminal background check and drug and alcohol screening required)
-

To be completed by the representative of Contractor/Contractor:

Name of Employee/Agent: _____ Start Date of Work for Board: _____

I, _____, as a representative of the Contractor/Contractor, certify that the above-named employee or agent of the Contractor/Contractor is assigned to complete the work described above and (check the applicable options below):

1. Has a valid Colorado driver's license and a satisfactory driving record, defined as having no more than six (6) points on his/her driving record in the three (3) years prior to the assignment. *(Applies if work involves operating a Board vehicle.)*
2. Has been the subject of a background check no more than one (1) year prior to the assignment, and I have determined that he/she does not pose a risk to persons or property. Background checks must include a Colorado Bureau of Investigation (CBI) Criminal History Check, and, if the employee or agent has lived outside the State of Colorado or the United States during the last five (5) years, a criminal history check from each state or country of residence. *(Applies if work involves security concerns or safety-sensitive duties.)*
3. Has been the subject of a credit history check, and I have determined that he/she does not pose a risk to the Board. *(Applies if work involves accessing the Board's financial records or accounting processes.)*
4. No more than one (1) month prior to the assignment under this contract, he/she passed a drug and alcohol screening performed at a certified testing facility using a Rapid Screen test (negative results only will be accepted) or by a federally certified laboratory using a Federal (HHS, FMCSA or DOT) 5-Panel Drug Test. *(Applies if work involves safety-sensitive duties.)*

Under penalty of perjury, I swear the above statements are true and correct.

Signature: _____ Date: _____

Phone: _____ E-mail: _____

Approval by the Board's Contract Administrator:

Print Name: _____

Signature: _____

Date: _____

**Consent to Perform Background Checks
In Compliance with the FCRA (Fair Credit Reporting Act)**

Contract No. _____	Check all that apply: <input type="checkbox"/> Criminal Background <input type="checkbox"/> Credit Background
Name of Contractor/Contractor: _____	

The information requested below is to be used by Denver Water for the purpose of obtaining criminal or credit history background information. Denver Water will not retain this information.

Last Name: _____ First Name: _____ Middle Name/Initial: _____
 Maiden or other name(s) used in any and all other records of birth or records of residence: _____

Date of Birth: _____ Social Security Number: _____ Gender: _____
 Current Address: _____ Apartment No: _____
 City: _____ County: _____ State: _____ Zip: _____

Previous Addresses (during the last five years):

Address: _____ Apartment No: _____
 City: _____ County: _____ State: _____ Zip: _____
 Address: _____ Apartment No: _____
 City: _____ County: _____ State: _____ Zip: _____
 Address: _____ Apartment No: _____
 City: _____ County: _____ State: _____ Zip: _____
 Address: _____ Apartment No: _____
 City: _____ County: _____ State: _____ Zip: _____

Consent to Background Checks: I understand that before I am permitted to perform work under the Contract identified above, Denver Water will conduct criminal and/or credit history background checks on me. I do hereby consent to Denver Water's use of the information I have provided for the purpose of conducting criminal and/or credit history background checks on me. Denver Water has informed me of the following in accordance with the Fair Credit Reporting Act:

- I have the right to review and challenge any negative information that would adversely impact a decision to authorize me to perform work under the Contract.
- Upon my request, Denver Water will provide me with the name, address and telephone number of the reporting agency or agencies used to conduct background checks, and with the nature, substance and source of all background information obtained.
- Upon my request, I will be provided a reasonable amount of time and a reasonable opportunity, as determined by Denver Water, to clear up any mistaken information reported about my criminal or credit history.

Signature

Date

Insert Name of Contractor and/or Contract No.

Occupational Medicine clinics:

1. **Concentra** – www.concentra.com
Multiple locations throughout the state:
<http://maps.concentra.com/corporatev3/ListSearch.aspx>
See list for individual location telephone numbers

2. **HealthOne** – www.healthoneclinics.com
Occupational Medicine site:
<http://www.healthoneclinics.com/CustomPage.asp?guidCustomContentID=25FF9FDE-F37D-4712-85A7-679915BE40F3>

Initial W/C, Drug Screen, Breath Alcohol
Phone: 303-861-7878
1515 Wazee, Ste D
Denver, CO 80202

Multiple locations throughout Denver.
Referral form w/addresses for testing available on website.

3. **Exempla** - www.exempla.org
Occupational Medicine & Physical Therapy Customer Service Line:
303-813-5140
Occupational Medicine site: http://www.exempla.org/body_epn.cfm?id=1352
Multiple locations throughout the state:
http://www.exempla.org/documents/EPN/epn_occmedmap.pdf

4. **Midtown Occupational Medicine** - www.midtownoccupationalhealth.com
Diamond Hill Office Complex
Speer & I-25
2420 W. 26th Ave.
Building D Suite 200
Denver, CO 80211
(303) 831-9393
Fax: (303) 831-6335
Hours of Operation:
Monday - Friday, 7am-6pm

5. **Denver Occupational/Aviation Medicine Clinic -**
<http://www.denveroccmcd.com/>
Denver Occupational and Aviation Medicine (DOAM)
3700 Havana Street, Suite 200
Denver, CO 80239
303.373.4456
303.373.4501 (F)

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific instructions on page 2.	<p>1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p> <hr/> <p>2 Business name/disregarded entity name, if different from above</p> <hr/> <p>3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____</p> <p>4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i></p> <p>5 Address (number, street, and apt. or suite no.) _____ Requester's name and address (optional) _____</p> <p>6 City, state, and ZIP code _____</p> <p>7 List account number(s) here (optional) _____</p>
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Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number																								
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Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶ _____	Date ▶ _____
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

Insert Name of Contractor and/or Contract No.

For fillable form: www.irs.gov/pub/irs-pdf/fw9.pdf

Insert Name of Contractor and/or Contract No.