



Steam to Electric Conversion Incentive Program



ABOUT THE OFFICE OF CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY

The mission of the Office of Climate Action, Sustainability, and Resiliency (CASR) is to act with urgency to proactively mitigate climate change by advancing science-based strategies to reduce greenhouse gas emissions on a scale and timeline that align with the recommendations from the Intergovernmental Panel on Climate Change; cultivate resiliency in the face of potential climate change-related emergencies; secure an economically, socially, and environmentally sustainable city for generations to come; and ensure that the setting of goals and metrics and monitoring of results considers equity.

On November 3, 2020, the people of the City and County of Denver voted in favor of Ballot Initiative 2A, raising the local sales and use tax by 0.25% to create the Climate Protection Fund (CPF). The CPF is dedicated to eliminating greenhouse gas emissions and air pollution, supporting climate adaptation, and creating new jobs to improve the lives of Denverites. This program will be funded by the CPF and is intended to address the following allowable CPF uses contained in D.R.M.C. § 2-406:

- Upgrade the energy efficiency of homes, offices, and industry to reduce their carbon footprint, utility bills, and indoor air pollution.
- Increases investments in solar power, battery storage, and other renewable energy technology.
- Job creation through local workforce training and new careers for under-resourced individuals in clean energy technology and management of natural resources.
- Adaptation and resiliency programs that help vulnerable communities prepare for a changing climate.

STEAM TO ELECTRIC CONVERSION INCENTIVE PROGRAM

The price of steam in Denver recently increased by nearly 40% due to an Xcel Energy rate change approved by the Colorado Public Utilities Commission.¹ This change has prompted owners of buildings on the steam loop system to explore disconnecting from it and instead obtain energy by either connecting to the natural gas system or electrifying building heating equipment. CASR would like to encourage building owners to choose the electrification option because it will deliver significant benefits to the City and its residents above and beyond those that would be achieved by converting to natural gas, including the following:

1. Reducing fossil fuel consumption and greenhouse gas emissions in commercial and residential buildings. An electric space and water heating system installed today will generate 15% to 66% fewer emissions over its lifetime compared to a gas space and water heating system. This is largely driven by Xcel Energy increasing the share of electricity that comes from renewable sources, as well as the increased efficiency of electric end uses. By 2030, the Xcel Energy electric system will be powered by 80% renewable sources, which means that in 2030, an all-electric building will emit 44% fewer greenhouse gases per year than a building that is utilizing gas for its space and water heating needs.
2. Evaluating strategies that lead to significant reduction in climate-forcing emissions in commercial and residential buildings. The incentives awarded in this program will serve as valuable case studies for future conversions.
3. Improving life safety and indoor air quality by removing natural gas equipment in commercial and residential buildings. Fumes from the burning of natural gas leak out of all equipment at varying rates, presenting a health risk to occupants, which is why the state requires all buildings to have carbon monoxide detectors.

¹ See Colorado Public Utilities Commission Docket No. 19AL-0063ST; <https://coloradosun.com/2020/02/13/xcel-energy-rate-increase-pueblo-coal/>

4. Protecting public health and survivability for communities most burdened by climate change impacts, specifically low-income communities, people of color and Indigenous people, and people living with chronic health conditions. Emissions of greenhouse gasses cause climate change, and one result of climate change is an increase in temperatures in Denver and, specifically, more days over 90 degrees and for longer durations. Hotter temperatures for longer periods exacerbate chronic health conditions and unhealthy living conditions for people living in low-income communities, which tend to have less green space outdoors and less access to in-home cooling (both are respites from heat). Further, more of Denver’s residents who identify as people of color tend to live in these climate-vulnerable communities. As part of the global effort to combat climate change, and in alignment with the targets set by the Paris Accord, Denver’s goal is to reduce citywide emissions 80% by 2050 to reduce this strain on residents. This program is one of many strategies Denver is implementing to achieve this goal.

To achieve the benefits stated above, CASR has established the goal of reducing greenhouse gas emissions from each steam-powered building funded by this program by at least 20% as compared to the emissions of the average of the prior three years of typical operations. CASR intends to meet this goal by offering a financial incentive encouraging building owners who wish to disconnect from steam to choose electricity over natural gas. The program will provide a monetary incentive payment to buildings owners who choose to convert their buildings from steam to electric fuel systems by funding the incremental cost differential incurred by electing to implement an electric fuel building conversion at cost parity to a gas alternative.

ELIGIBLE BUILDINGS

Incentive payment applicants must meet the following criteria to be eligible for consideration:

1. The building must be a customer on Xcel Energy’s steam system in Denver, Colorado, and must submit a current Xcel Energy bill for the subject building to verify that it is on the Xcel Energy steam system.
2. The applicant must be the building owner.
3. The applicant must be able to implement and complete project within 24 months from date of contract execution.
4. The applicant must have obtained technical expertise and quotes to determine the best method for conversion from steam to electric. Quotes for an electric conversion and a gas conversion are required with the application submittal and schematic design documents are encouraged. Costs incurred to prepare this application are excluded from the incentive payment.
5. The applicant must submit a budget for converting the building from steam power to electricity, including the following:
 - Total costs (labor and equipment) to convert building from steam to electric
 - Total costs (labor and equipment) to convert building from steam to natural gas
 - Cost difference between the two identifying the total amount the applicant is requesting for the financial incentive
 - All prices quoted shall be firm and fixed for the defined SOW and timeline
6. Data to inform a City assessment of greenhouse gas reduction for the conversion.

EVALUATION OF APPLICATIONS – CRITERIA AND WEIGHTS FOR SELECTION

The application will be evaluated according to the criteria described below, with the weights allocated to each criterion set forth in the table that follows.

1. **Greenhouse gas reduction assessment** - Demonstrated reduction in greenhouse emissions by comparing the projected emissions from the all-electric and all-natural gas system options. CASR will prepare the GHG assessment using data submitted by the applicant, as described in the application.
2. **Cost effectiveness** – Conversion represents a cost-effective opportunity to electrify rather than choosing natural gas when paired with Climate Protection Fund support.
3. **Non-energy benefits** – Conversion captures non-energy benefits such as improved thermal comfort, improved reliability, improved occupant health, reduced noise, etc.
4. **Teaming plan and workforce standards** – Please describe your team and qualifications, and any women and minority owned businesses that are part of your team. Applicants should also demonstrate, as applicable, how they utilize high road labor standards such as a skilled and trained workforce from certifications or apprenticeship programs; provide benefits such as health care, retirement, and wage standards; use best value/responsible contracting; and have regional targeted and local hire requirements.

Evaluation Criteria	Points
Greenhouse gas reduction assessment	45
Cost effectiveness	40
Non-energy benefits	10
Teaming plan and workforce standards	5
Total	100

The City may request an interview as part of the evaluation process. Any such interviews will take place after CASR has conducted an initial review of submitted applications.

CASR encourages applicants to utilize small, minority, and woman-owned businesses on their project team and, where independent contractors are needed, consider utilizing individuals who identify as people of color, Indigenous people, LGBTQ+, people with disabilities, and people whose household income is below the area median.

AWARD(S) NOTIFICATION

CASR will accept applications on a rolling basis and will make award determinations by the end of each quarter. CASR reserves the right to not award any applications during a quarterly award period.

Selected applicants will receive an award notice via email and should be prepared to collaborate with the City to establish a formal written agreement utilizing the form of the agreement attached to the application. The 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. Note that contracts more than \$500,000 require City Council approval and will take longer to process. Contracts will contain reporting and milestone requirements that must be satisfied before the City will reimburse project costs.

CASR’s maximum award expenditure for calendar year 2021 incentives is \$4 million.

INSTRUCTIONS FOR APPLICATION SUBMITTAL

Completed applications and required forms/documentation must be submitted via e-mail to Julie Saporito at julie.saporito@denvergov.org, and CASR will evaluate applications received on a quarterly basis. All required forms and supporting documentation must be included at the time the application is submitted. The Application Form is included below, and a sample agreement is included as Appendix A to the Application Form. Please review the sample agreement with the City's standard language and insurance requirements before submitting your application.

POINT OF CONTACT

Office of Climate Action, Sustainability and Resiliency

Name: Julie Saporito

Email: Julie.Saporito@denvergov.org

STEAM TO ELECTRIC CONVERSION INCENTIVE PROGRAM APPLICATION FORM

A fillable Word doc version of this form is available at www.denvergov.org/sustainability.

1. Name of Applicant

Is the applicant the owner of the building being converted from steam to electricity? Yes ___ No ___

2. Address of Building:

3. Is this building part of the Xcel Energy Steam District? Yes ___ No ___

If yes, please attach a recent Xcel bill for the building.

4. Applicants must obtain technical expertise and quotes to determine the best method for conversion from steam to electric. Applicants must attach a quote detailing the costs to convert the building from steam to electricity and a quote detailing the costs to convert the building from steam to natural gas. Costs incurred during this preliminary phase are excluded from the incentive payment.

Electric Quote must contain:

- Equipment costs
- Labor costs
- Estimate from Xcel Energy to provide additional electric service, and any electric upgrades that must take place in the building.
- Estimated timeline to complete project

Gas quote must contain:

- Equipment costs
- Labor costs
- Estimate from Xcel Energy to provide new or extend existing gas service
- Estimated timeline to complete project

Applicants are encouraged to include any other technical documentation to aid the City in reviewing the application, such as engineering blueprints or schematic design documents.

5. Applicants must be able to complete the conversion within a 24-month period commencing upon contract execution. Please explain the proposed timeline during which the conversion will take place.

6. Please provide the following budget with your application:

- Total costs (labor and equipment) to convert building from steam to electric
- Total costs (labor and equipment) to convert building from steam to natural gas
- Cost difference between the two identifying the total amount the applicant is requesting for financial support.



- Confirmation that all prices quoted shall be firm and fixed for the defined SOW and timeline.

Note: The City reserves the right to negotiate the total contract amount, and award all, some or none of the requested award. The City is not liable for any costs or expenses arising out of preparation of this application and if selected, may not include any of these costs or expenses as part of its fee, rates, or charges for performing work under the Contract.

7. Please include the following data to allow the City to make an assessment of your project’s greenhouse gas reduction over the lifetime of the system:
 - Rated lifetime of your proposed electric system
 - The annual estimated kWh consumption of your proposed electric system
 - The annual estimated therm consumption of your gas alternative system
8. Please describe the non-energy benefits that converting your building from steam to electricity will bring to its occupants. For example, will the electrical space and water heating provide enhanced thermal controls and/or greater thermal comfort? Will the all-electric system improve reliability, occupant health and safety, and/or reduce noise?
9. CASR encourages applicants to engage or utilize small, minority, and woman-owned businesses and, where independent contractors are required, to utilize individuals who identify as people of color, indigenous people, LGBTQ+, people with disabilities, and people whose household income is below the area median². CASR also encourages applicants and their project teams to demonstrate how they, as applicable, provide support for high road labor standards such as utilizing a skilled and trained workforce from certification or apprenticeship programs; provide benefits such as health care, retirement, and wage standards; use best value/responsible contracting; and have regional targeted and local hire requirements.

Please provide information regarding your intended utilization or engagement of the businesses, independent contractors, or practices described above.

10. Does your building house or include tenants that serve under-resourced communities or individuals, specifically, people living at or below 60% of [Denver’s Area Median Income](#), and/or who identify as people of color, Indigenous people, people who identify as LGBTQ+, former foster care youth, or people with justice-involved histories? If yes, please describe.
11. If the building use includes affordable housing, please provide any documentation on how electrification impacts your net operating income and debt service coverage ratio, if any.
12. DIVERSITY AND INCLUSIVENESS – EXECUTIVE ORDER #101:

The “Diversity and Inclusiveness in City Solicitations Request Form” must be submitted electronically as part of your Application. **Failure to include this form will render your Application as non-responsive.** The form is available at: Diversity and Inclusiveness in City Solicitations Information Request Form

² <https://www.denvergov.org/files/assets/public/housing-stability/documents/2021-income-limits-pub.pdf>



(<https://fs7.formsite.com/CCDenver/form161/index.html>). Once submitted you will receive the option to “print receipt” or you may include your confirmation email as proof.

Using the included link entitled “Diversity and Inclusiveness in City Solicitations Information Request Form”, please state whether you have a diversity and inclusiveness program for employment and retention, procurement and supply chain activities, or customer service, and provide the additional information requested on the form. The information provided on the Diversity and Inclusiveness in City Solicitations Request Form will provide an opportunity for City applicants to describe their own diversity and inclusiveness practices.

Background

The information provided on the Diversity and Inclusiveness in City Solicitations Request Form will provide an opportunity for City applicants to describe their own diversity and inclusiveness practices.

Applicants are not expected to conduct intrusive examinations of their employees, managers, or business partners in order to describe diversity and inclusiveness measures. Rather, the City simply seeks a description of the applicant’s current practices, if any. Diversity and Inclusiveness information provided by City applicants in response to City awards will be collated, analyzed, and made available in reports consistent with City Executive Order No. 101. However, no personally identifiable information provided by or obtained from applicants will be in such reports.

Definitions

Diversity: Diversity refers to the extent to which an applicant has people from diverse background or communities working in its organization at all levels, is committed to providing equal access to business opportunities and achieving diversity in procurement decisions for supplies, equipment, and services, or promotes training and technical assistance to diverse businesses and communities such as mentoring and outreach programs and business engagement opportunities.

Inclusiveness: Inclusiveness, for purposes of Executive Order No. 101, includes the extent to which an applicant invites values, perspectives and contributions of people from diverse backgrounds and integrates diversity into its hiring and retention policies, training opportunities, and business development methods to provide an equal opportunity for each person to participate, contribute and succeed within the organization’s workplace. Inclusiveness also includes the extent to which businesses have an equal opportunity to compete for new business opportunities and establish new business relationships in the private and public sector.

13. Please include a signed copy of the applicant’s W-9, along with a current Certificate of Good Standing from the Colorado Secretary of State.

Applications submitted are subject to the Colorado Open Records Act, C.R.S. §§ 24-72-200.1204 (“CORA”). If the applicant believes that any information, data, process or other material in its application constitutes trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data, then the applicant should mark those items as confidential or proprietary and provide a list of those items with specificity as to the page and paragraph and on what basis it believes the material is confidential or proprietary. The City is not bound



by the applicant’s determination as to whether materials are subject to disclosure under CORA and reserves the right to independently determine whether the materials are required to be made available for inspection or otherwise produced under CORA.

All applications become a matter of public record and shall be regarded as Public Records, with the exception of those specific elements in each application which are designated by the applicant as business or trade secrets and plainly marked “Trade Secrets,” “Confidential,” “Proprietary,” or “Trade Secret.” Items so marked shall not be disclosed unless disclosure is otherwise required under the Open Records Act. If such items are requested under the Open Records Act, the City will use reasonable efforts to notify the applicant, and it will be the responsibility of the proposer to seek a court order protecting the records, and to defend, indemnify, and hold harmless the City from any claim or action related to the City’s non-disclosure of such information.

Any award of an incentive payment as a result of this application shall be contingent upon the execution of an appropriate contract. Exhibit A to this Application contains the City’s proposed terms and conditions. These terms and conditions shall form the basis of a contract authorizing the incentive payment. By submitting an application, you confirm that the standard form is acceptable. If there is contention(s) with the contract, a brief explanation and alternative language, if any, should be included in your application. Any exceptions to the terms and conditions will be taken into consideration when evaluating applications submitted. The City reserves the right to reject any or all of your proposed modifications. Modifications to sections of the contract entitled: “Insurance,” “Defense and Indemnification,” “Colorado Governmental Immunity Act,” “No Discrimination in Employment,” and “Governing Law; Venue” will render your application non-responsive.

The City shall have the right at its sole discretion to waive any deficiency in any application and to reject any or all applications. The issuance of this application in no way constitutes a commitment by the City to select any building for the incentive payment.

Applicant SIGN HERE

Applicant Name: _____

By: _____
 (Printed or Typed Name)

 (Signature)

Signature constitutes acceptance of all Terms and Conditions listed on this form and all documents attached.

APPENDIX A SAMPLE AGREEMENT

AGREEMENT

THIS AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a home rule and municipal corporation of the State of Colorado (the “**City**”), and _____, a _____, whose address _____ (the “**Recipient**”) (together, the “**Parties**”).

RECITALS

WHEREAS, there are public purposes for converting buildings in the City from steam-generated energy to electricity-generated energy, including reducing greenhouse gas emissions to protect City residents and visitors from the adverse public health impacts associated with climate change, increasing safety for building occupants, and improving indoor air quality;

WHEREAS, the public purposes above will be furthered to a greater extent by buildings that are converted from steam to electricity than buildings that are converted from steam to natural gas;

WHEREAS, incentives are needed to encourage building owners to choose to convert from steam-generated energy to electricity-generated energy to further the public purposes above;

WHEREAS, the Recipient is willing to convert its building, which is located within the City and County of Denver, from a steam to electric fuel system partly due to the availability of certain incentives provided by the City, as further described in this Agreement;

WHEREAS, this Agreement, and the conversion of Recipient’s building from steam service to electric service within the City will advance the valid and valuable public purposes set forth above by reducing greenhouse gas emissions, increasing safety, and improving indoor air quality, as a result of the incentives described herein; and

WHEREAS, for these reasons, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **RECIPIENT OBLIGATIONS**. This Agreement and the City’s obligations hereunder are conditioned upon the following Recipient converting its building located at _____ (the “**Building**”) from a steam to electric fuel system as set forth in **Exhibit A, the Scope of Work**.
2. **TERM**. The term of this Agreement shall commence on the date of execution set forth on the City’s signature page and shall expire twenty-four (24) months thereafter; provided, however, that this Agreement shall automatically terminate when the City’s payment(s) hereunder equal the Maximum Contract Amount. Subject to the Executive Director’s prior written authorization, the Recipient may complete any work in progress as of the expiration date



and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director.

3. **INCENTIVE PAYMENTS.** Subject to the terms hereof, the City agrees to make incentive payments to the Recipient payable as follows:

a. **Budget.** The City shall reimburse Recipient for documented costs directly incurred by Recipient and allocable to the conversion of the Building from steam to electricity upon completion of each milestone of the Building’s conversion as further detailed in **Exhibit B, the Budget**. Recipients costs shall not exceed the line item amounts set forth in Exhibit B.

b. **Maximum Contract Amount.**

(1) Notwithstanding any other provision of the Agreement, the City’s maximum incentive payment obligation shall not exceed _____ (\$_____) (the “**Maximum Contract Amount**”).

(2) The City’s payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for purposes of the Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple fiscal year direct or indirect debt or financial obligation of the City.

c. **Petitions for Payment.** To receive an incentive payment hereunder, the Recipient shall petition the Executive Director of Climate Action, Sustainability, and Resiliency or her designee (the “Executive Director”).

(1) The petition for incentive payment shall contain the Recipient’s supporting documentation evidencing eligible expenses as set forth in **Exhibit B**, and the Recipient’s satisfaction of the requirements contained in Section 1 above. To receive an incentive payment, the Recipient must petition the Executive Director at least forty-five (45) days before the expiration of the Term.

(2) The Recipient shall supply whatever additional information the City requests in order to substantiate the Recipient’s petition for incentive payments. The City may withhold incentive payments for which it has been petitioned by the Recipient if it reasonably determines that the petition is not substantiated by the supporting documentation submitted by the Recipient. Such determination shall be provided to the Recipient in writing and shall be appealable to the Executive Director.

(3) Upon receipt of documentation satisfying the requirements of this Section 2.c., the City shall verify the Recipient’s petition and issue proper incentive payment consistent with the City’s



Prompt Payment Ordinance, D.R.M.C. §§ 20-107–118.

4. **EXAMINATION OF RECORDS.** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine, copy and retain copies, at City’s election in paper or electronic form, any pertinent books, documents, papers and records related to the Recipient’s performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Recipient shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audit pursuant to this paragraph shall require Parties to make disclosures in violation of state or federal privacy laws. Parties shall at all times comply with D.R.M.C. 20-276.
5. **WHEN RIGHTS AND REMEDIES NOT WAIVED.** In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Recipient. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.
6. **ASSIGNMENT AND SUBCONTRACTING.** The City is not obligated or liable under this Agreement to any party other than the Recipient. The Contractor shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the City.
7. **INSURANCE.**
 - a. **General Conditions:** The Recipient agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. The Recipient shall keep the required insurance coverage in force at all times during the term of the Agreement, including any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-VIII” or better. Each policy shall require notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which



notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, the Recipient shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. The Recipient shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Recipient. The Recipient shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

- b. Proof of Insurance:** The Recipient may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. The Recipient certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the certificate of insurance. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of the Recipient's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.
- c. Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), the Recipient and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
- d. Waiver of Subrogation:** For all coverages required under this Agreement, the Recipient's insurer shall waive subrogation rights against the City.
- e. Subcontractors and Subconsultants:** The Recipient shall confirm and document that all subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Recipient and appropriate to their respective primary business risks considering the nature and scope of services provided.
- f. Workers' Compensation and Employer's Liability Insurance:** The Recipient shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.
- g. Commercial General Liability:** The Recipient shall maintain a Commercial General Liability insurance



policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate.

- h. Automobile Liability:** The Recipient shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

8. DEFENSE AND INDEMNIFICATION:

- a.** The Recipient 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 relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the Recipient or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.
- b.** The Recipient’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. The Recipient’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.
- c.** The Recipient 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.
- d.** Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Recipient under the terms of this indemnification obligation. The Recipient shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.
- e.** This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

9. COLORADO GOVERNMENTAL IMMUNITY ACT. In relation to the Agreement, the City is relying upon and has not waived the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, C.R.S. § 24-10-101, et seq.

10. TAXES, CHARGES AND PENALTIES: The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City’s prompt

payment ordinance D.R.M.C. § 20-107, *et seq.* The Recipient shall promptly pay when due, all taxes, bills, debts and obligations it incurs converting the Building from a steam to electric fuel system and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

11. **INUREMENT**: The rights and obligations of the Parties to the Agreement inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.
12. **NO DISCRIMINATION IN EMPLOYMENT**. In connection with the performance of work under this Agreement, the Recipient may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Recipient shall insert the foregoing provision in all subcontracts.
13. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS**. This Agreement is intended as the complete integration of all understandings between the Parties. No prior, contemporaneous or subsequent addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing, and executed in the same manner as this Agreement.
14. **GOVERNING LAW; VENUE**. The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).
15. **LEGAL AUTHORITY**.
 - a. The Recipient lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.
 - b. The Recipient represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.
 - c. The person or persons signing and executing this Agreement on behalf of the Recipient do hereby represent and warrant that he/she or they have been fully authorized by the Recipient to execute this Agreement on behalf of the Recipient and to validly and legally bind the Recipient to all the terms, performances and provisions herein set forth.



d. The City shall have the right, at its option, to temporarily suspend or permanently terminate this Agreement, if there is a dispute that the legal authority of either the Recipient or the person signing this Agreement on the Recipient's behalf is not sufficient to enter into this Agreement. The City shall not be obligated to the Recipient for any performance of the provisions of this Agreement in the event that the City has suspended or terminated this Agreement as provided in this Section.

16. NO THIRD PARTY BENEFICIARY. Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in this Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Recipient receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

17. SEVERABILITY. Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

18. CONFLICT OF INTEREST.

a. No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Recipient shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

b. The Recipient shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Recipient 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 the Recipient by placing the Recipient's own interests, or the interests of any party with whom the Recipient has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement if it determines a conflict exists, after it has given the Recipient written notice describing the conflict.

19. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS. The Recipient consents to the use of electronic signatures by the City. This Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this 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.

- 20. COMPLIANCE WITH ALL LAWS.** The Recipient shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.
- 21. NOTICES.** All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to the Recipient at the address first above written, and if to the City at:

Executive Director of the Office of Climate Action, Sustainability & Resiliency or Designee
201 West Colfax Avenue, Dept. 704
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

- 22. DISPUTES.** All disputes between the City and the Recipient arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Executive Director as defined in this Agreement.
- 23. NO CONSTRUCTION AGAINST DRAFTING PARTY.** The Parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.
- 24. ORDER OF PRECEDENCE.** In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.
- 25. SURVIVAL OF CERTAIN PROVISIONS.** The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Recipient's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims,

matters, or actions begun within that period.

26. **ADVERTISING AND PUBLIC DISCLOSURE**. The Recipient shall not include any reference to the Agreement or to incentives paid pursuant to the Agreement in any of the Recipient’s advertising or public relations materials without first obtaining the written approval of the Executive Director. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Recipient shall notify the Executive Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.
27. **CITY EXECUTION OF AGREEMENT**. The 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.
28. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS**. The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

List of Exhibits

Exhibit A – Scope of Work

Exhibit B – Budget

Exhibit C – Insurance Certificate

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