

# WSCA PARTICIPATING ADDENDUM AMENDMENT

Amendment # 1

Original Contract Routing Number: 09-ACA-\_\_\_\_\_

Effective Date 8/1/2008

## 1 PARTIES

This Amendment to the above-referenced Original Participating Addendum (hereinafter called the Participating Addendum) is entered into by and between Mohawk Resources LTD. (hereinafter called "Contractor"), and the STATE OF COLORADO (hereinafter called the "State") acting by and through the Department of Personnel & Administration, Division of Finance and Procurement, State Purchasing Office (hereinafter called the "SPO").

## 2 EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or his/her designee (hereinafter called the "Effective Date"), but shall be effective and enforceable thereafter in accordance with its provisions. The State shall not be liable to pay or reimburse Contractor for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

## 3 FACTUAL RECITALS

- a. Authority exists in the law and funds have been budgeted, appropriated, or otherwise made available and a sufficient unencumbered balance thereof remains available for payment, and
- b. Required approval, clearance, and coordination has been accomplished from and with appropriate agencies; and
- c. The Parties entered into the Participating Addendum for/to Vehicle Lifts and Related Garage Equipment.

## 4 CONSIDERATION

Consideration for this Amendment consists of the payments to be made hereunder and the obligations, promises, and agreements herein set forth.

## 5 LIMITS OF EFFECT

This Amendment is incorporated by reference into the Participating Addendum, and the Participating Addendum and all prior amendments thereto, if any, remain in full force and effect except to the extent specifically amended hereby.

## 6 AMENDMENTS

The Participating Addendum and all prior amendments thereto, if any, are amended as follows:

### a. Addition of a new section entitled State Administrative Fee.

**State Administrative Fee.** The State of Colorado is authorized by Colorado State laws, regulations, or policies to collect a fee for the administration of this Agreement. This Colorado administrative fee will be 1% of the total purchases made by all Colorado ordering entities; i.e., State Agency, Institution of Higher Education and political subdivision.

These Colorado administrative fees shall be calculated based on total purchase volumes reported to the State in accordance with Section A of the Participating Addendum. Fees shall be made payable to the Colorado State Treasurer by a check submitted to the State Purchasing Agent responsible for this agreement. Colorado administrative fees shall be due 15 calendar days after the end of each calendar quarter, i.e., July 15, October 15, January 15, April 15. Should the deadlines specified in the WSCA Master Contract differ from this schedule, the WSCA deadlines shall govern.

## 7 EFFECTIVE DATE OF AMENDMENT

The effective date hereof is upon approval of the State Controller or their designee, or August 1, 2008, whichever is later.

## 8 ORDER OF PRECEDENCE

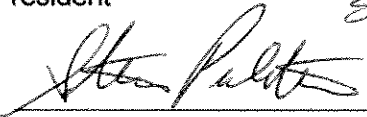

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Participating Addendum, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Participating Addendum or any amendment shall always control other provisions in the Participating Addendum or any amendments.

## 9 AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

### THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

**\*Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

<b>CONTRACTOR</b>  <b>Mohawk Resources LTD.</b> By: Ricky Wells, Sr. <i>STEVEN PERLSTEIN</i> Title: President <i>SECRETARY</i>   *Signature	<b>STATE OF COLORADO</b> <b>Bill Ritter, Jr. GOVERNOR</b> Department of Personnel & Administration Rich Gonzales Title: Executive Director   By: Adrienne Benavidez, Division Director
---	---

### ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Amendment is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

<b>STATE CONTROLLER</b> <b>David J. McDermott, CPA</b>  By: _____  Date: _____
---