

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. CB13-0210  
COMMITTEE OF REFERENCE:  
BUSINESS, WORKFORCE, & SUSTAINABILITY

**A BILL**

**For an ordinance approving a proposed First Amendment to Agreement between the City and County of Denver and xMatters, Inc related to the Emergency Notification System at Denver International Airport.**

**BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1.** The proposed First Amendment to Agreement between the City and County of Denver and xMatters, Inc. in the words and figures contained and set forth in that form of Agreement available in the office and on the web page of City Council, and to be filed in the office of the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, under City Clerk's Filing No. 2012-0981-A, is hereby approved.

COMMITTEE APPROVAL DATE: April 4, 2013

MAYOR-COUNCIL DATE: April 9, 2013

PASSED BY THE COUNCIL: \_\_\_\_\_, 2013

\_\_\_\_\_ - PRESIDENT

APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2013

ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
EX-OFFICIO CLERK OF THE  
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_, 2013; \_\_\_\_\_, 2013

PREPARED BY: Kevin Cain, Assistant City Attorney *K. Cain* DATE: April 11, 2013

Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

Douglas J. Friednash, City Attorney for the City and County of Denver

BY: \_\_\_\_\_, Assistant City Attorney DATE: April 11, 2013

## FIRST AMENDMENT TO AGREEMENT

**THIS FIRST AMENDMENT TO AGREEMENT FOR EMERGENCY NOTIFICATION SYSTEM DESIGN, INSTALLATION, DEPLOYMENT AND MAINTENANCE (Contract Number 201100682) (“Agreement”),** is made and entered into as of the date set forth on the signature page below (the “Effective Date”) by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (“City”), Party of the First Part, and **X MATTERS INC**, a California corporation authorized to do business in Colorado (“Consultant”), Party of the Second Part;

### WITNESSETH:

**WHEREAS**, the parties entered in an Agreement dated December 10, 2012 in which the Consultant will provide professional services for the design, configuration, installation, deployment and maintenance of the Emergency Notification System (“ENS”) and related equipment, and such other work as may be requested by the City, at Denver International Airport (the “Existing Agreement”); and

**WHEREAS**, wish to amend the Existing Agreement to increase the Maximum Contract Liability;

**NOW, THEREFORE**, for and in consideration of the premises and other good and valuable consideration, the parties hereto agree as follows:

1. Paragraph 3, **COMPENSATION AND PAYMENT, subparagraph D**, is deleted in its entirety and restated as follows:

**“3. COMPENSATION AND PAYMENT:**

**D. Maximum Contract Liability:**

(i) Any other provision of this Agreement notwithstanding, in no event shall the City be liable to pay for the performance and completion of all Work under this agreement for any amount in excess of One Million Dollars (\$1,000,000.00) (the “Maximum Contract Liability”). Funding under the provisions of this paragraph 3.D. may be payable from the City’s Airport System Capital Replacement Fund and/or Airport Operations and Maintenance Fund. The Consultant acknowledges that the City is not obligated to execute an Order, agreement or an amendment to this Agreement for any services and that any services performed by Consultant beyond that specifically described in an Order are performed at Consultant’s risk and without authorization under this Agreement.

(ii) The Parties agree that the City’s payment obligation, whether direct or contingent, shall extend only to funds appropriated as stated herein and encumbered for the purpose of this Agreement. The Parties agree that (a) the City does not by this Agreement irrevocably pledge present cash reserves for payment

or performance in future fiscal years and (b) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.”

2. Except as otherwise provided herein, all the terms, provisions, and conditions of the Existing Agreement shall remain in full force and effect as though set out in full herein.

3. This First Amendment to Agreement shall not be effective or binding on the City until approved by the City Council for the City and County of Denver and fully executed by all signatories of the City and County of Denver.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

**Contract Control Number:** PLANE-201100682-01

**Contractor Name:** X MATTERS INC

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

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

DOUGLAS J. FRIEDNASH, Attorney  
for the City and County of Denver

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** PLANE-201100682-01

**Contractor Name:** X MATTERS INC

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**ATTEST: [if required]**

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

