

**FIRST AMENDMENT TO THE AGREEMENT**

**THIS FIRST AMENDMENT TO THE AGREEMENT**, is made and entered into as of the date stated on the signature page (“**Effective Date**”), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (“**City**”), and **HENSEL PHELPS CONSTRUCTION CO.**, a Delaware General Partnership authorized to do business in the State of Colorado, (“**Contractor**”).

**WITNESSETH:**

**WHEREAS**, the City owns and operates Denver International Airport (“**DEN**” or the “**Airport**”); and

**WHEREAS**, the City and Contractor entered into a written Agreement, Contract No. 201628516-00 with an Effective Date of December 7, 2016 (“**Agreement**”), wherein they agreed Contractor will provide all labor, tools, supplies, equipment, materials and everything necessary and required to complete the work described in the Agreement, for on-call baggage handling system enabling projects, sometimes called the Level 5.5 Project; and

**WHEREAS**, the City now wishes to add additional funding and term to the Agreement and First Amendment in order to assign Contractor additional work on the Level 5.5 Project; and

**WHEREAS**, the terms and conditions of the Agreement not specified as amended in this Amendment shall remain the same; and

**WHEREAS**, Contractor is willing and able to perform the Work.

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

1. Article III, Terms of Performance is hereby deleted in its entirety and replaced with the following:

The Contractor agrees to begin the performance of the work required under this Contract within ten (10) days after being notified to commence work by the Deputy Manager of Aviation – Airport Infrastructure Management and agrees to fully complete the Work in its entirety within the time frame established for each Task Order. The entire contract shall be completed on December 31, 2022. This period of performance is also referred to as Contract Time. The Contractor is not authorized to commence work prior to its receipt of the Notice to Proceed.

If, at the end of the Contract Time, there remains any outstanding Work to be completed under a validly issued Task Order, the Senior Vice President of Airport Infrastructure Management, in his or her sole discretion, may direct the Contractor to complete the Work in accordance with the terms and conditions of the Task Order and this Contract.

2. Article V, Terms of Payment, is hereby deleted in its entirety and replaced with the following.

The City agrees to pay the Contractor for the performance and completion of all of the Work required under each authorized Task Order, in accordance with the Contract Documents. The Contractor acknowledges that this Contract is an On-Call Contract, and that there is no obligation on the City to issue any Task Orders under this Contract.

The maximum amount to be paid by the City to the Contractor for satisfactory completion of all Task Orders authorized by the City and performed by the Contractor under this Contract shall in no event exceed **One Hundred Thirty-Four Million, Seven Hundred Thousand Dollars and No Cents (\$134,700,000.00)** (“**Maximum Contract Amount**”). In no event, however, shall the total amount of compensation paid to the Contractor by the City exceed the Maximum Contract Amount, as modified by any duly authorized Change Order, specified herein.

Payments will be made to the Contractor in accordance with the City's Prompt Payment Ordinance, D.R.M.C., Section 20-107, et. seq., subject to the maximum contract amount stated above. Contractor agrees that interest and late fees shall be payable by the City hereunder only to the extent authorized and provided for in the City's Prompt Payment Ordinance.

Payment hereunder will be in accordance with the provisions of the Contract Documents, including Title 9 of the General Conditions, and will be made solely and exclusively from funds appropriated and otherwise lawfully made available for the purposes of this Contract from the City and County of Denver Airport System, Operations and Maintenance and Capital Improvement funds. The City has no obligation to make payments from any other fund or source or to make additional appropriations or allocations to such fund to satisfy such costs or other obligations.

In accordance with DRMC 20-109(e) and GC 909.1(h), Contractor agrees to waive prompt payment interest for any invoices which are not timely submitted and accepted by the City in their final, complete and responsive form. All invoices which are not submitted in their complete and responsive form within sixty (60) days of the completion of the Work included on the invoice shall be deemed untimely.

3. Article XVIII, Compliance with Minority/Women Business Enterprise Requirements is hereby deleted in its entirety and replaced by:

**ARTICLE XVIII - COMPLIANCE WITH DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS:** This Department of Transportation (DOT) 49 CFR Part 26 (“Part 26”) applies to this Project and will be incorporated into any agreement entered into by the City and contained in County of Denver Bid Documents. It is the policy of DOT and the City and County of Denver to ensure non-discrimination in the award and administration of DOT-assisted contracts financed in whole or in part with

Federal funds. Consequently, the Bidders must fully comply with the DBE requirements of Part 26 in bidding and performing hereunder.

Part 26 provides for the adoption of a good faith goals program, to be administered by the Division of Small Business Opportunity (DSBO). As such, each bidder must comply with the terms and conditions of the Part 26 in making its bid and, if awarded the Contract, in performing all Work thereunder. A bidder's failure to comply with Part 26, any Rules or Regulations promulgated pursuant thereto, or any additional requirements contained herein may render a bid non-responsive and may constitute cause for rejection.

In accordance with the requirements of the Part 26, the Contractor is committed to, at a minimum, meet the participation goal of fifteen percent (15%) established for this Project utilizing properly certified DBE subcontractors and suppliers.

4. Except as modified by this First Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect.

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

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

**Contract Control Number:** PLANE-202158004-01/Alfresco 201628516-01  
**Contractor Name:** HENSEL PHELPS CONSTRUCTION CO.

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:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

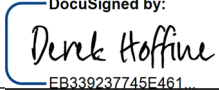
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By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

PLANE-202158004-01/Alfresco 201628516-01  
HENSEL PHELPS CONSTRUCTION CO.

By:  \_\_\_\_\_  
EB339237745E461

Name: Derek Hoffine  
(please print)

Title: Vice President  
(please print)

ATTEST: [if required]

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

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

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