

**ON-CALL ELECTRONIC AND COMMUNICATIONS SYSTEM SUPPORT SERVICES  
AGREEMENT**

**BETWEEN**

**CITY AND COUNTY OF DENVER**

**AND**

**THE JW GROUP, INC**

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**AT  
DENVER INTERNATIONAL AIRPORT**

## AGREEMENT

**THIS ON-CALL ELECTRONIC AND COMMUNICATIONS SYSTEM SUPPORT SERVICES AGREEMENT** (Contract Number 201839581-00) ('Agreement'), 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 **THE JW GROUP, INC.**, a corporation organized under the laws of Pennsylvania and authorized to do business in Colorado ("Consultant"), Party of the Second Part;

### WITNESSETH:

**WHEREAS**, the City owns and operates Denver International Airport ("DEN" or the "Airport"), and is seeking Professional Engineering Services to perform formal and incidental design, software support, project management, computer aided drafting, technical documentation, assessments, and other engineering assignments for projects related to electronics and technology systems at DEN; and

**WHEREAS**, the Consultant is qualified and ready, willing and able to provide the requested professional services to the City, in accordance with the terms of this Agreement;

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

#### **1. LINE OF AUTHORITY:**

The City's Chief Executive Officer of the Department of Aviation, her designee or successor in function (the "CEO of Aviation" or the "CEO") authorizes all work performed under this Agreement. The CEO hereby delegates her authority over the work described herein to the Airport's Senior Vice President – Technologies and Senior Vice President – Operations (the "SVPs") as the CEO's authorized representatives for the purpose of administering, coordinating and approving work performed by the Consultant under this Agreement. The SVPs' authorized representative for day-to-day administration of the Consultant's services under this Agreement is the Project Manager. The Consultant shall submit its reports, memoranda, correspondence and submittals to the Project Manager. The CEO and the SVPs may rescind or amend any such designation of representatives or delegation of authority and the SVPs may from time to time designate a different individual to act as Project Manager, upon notice to the Consultant.

#### **2. SCOPE OF WORK:**

A. The Consultant, under the general direction of, and in coordination with the CEO, or other designated supervisory personnel as set forth herein, shall diligently perform any and all authorized services provided under this Agreement. The Consultant shall provide the goods and services necessary to perform the obligations more fully described in the attached **Exhibit A, "SCOPE OF WORK"**. The City shall authorize specific engagements with the Consultant by placing a written order which will contain a description of the work to be performed and the rate to be charged. Such written orders may be a "Work Order" or "Task Order" or both. The terms

“Work Order” and “Task Order” are more fully described in **Exhibit B**. Work Orders and Task Orders may hereafter be referred to collectively as “Orders”. The Consultant agrees that during the term of this Agreement it shall fully coordinate its work under all Orders with any person or firm under contract with the City doing work or providing services which affect the Consultant’s services. The Consultant shall faithfully perform the work described in any and all Orders in accordance with the standards of care, skill, training, diligence and judgment provided by highly competent individuals and entities that perform services of a similar nature to those described in an Order.

B. Additional Services: The Consultant may also perform services, hereinafter referred to as "Additional Services," which relate to the subject matter of this Agreement, but which the SVPs determine to be not described in the Scope of Work or in excess of the requirements of the Scope of Work. Change orders and/or additional Statements of Work (SOWs) will be provided as needed to document work beyond that identified in **Exhibit A**. The Consultant shall be compensated for such Additional Services only if the services and the amount of fees and reimbursable expenses for the services have been authorized in writing in advance by the SVPs. The total amount of fees and reimbursable expense costs for Additional Services shall not cause this Agreement to exceed the Maximum Contract Liability set forth herein, and in no event shall the approval of Additional Services and the cost of performing them be deemed to constitute an agreement by the City to an increase in the Maximum Contract Liability.

C. The Consultant shall faithfully perform the work required under this Agreement in accordance with standards of care, skill, training, diligence and judgment provided by highly competent service providers who perform work of a similar nature to the work described in this Agreement. Time is of the essence in this Agreement.

### **3. TERM:**

The Term of this Agreement shall commence on the Effective Date, and shall terminate three years after, unless sooner terminated. The term of this Agreement may be extended for one period of two (2) years, by written amendment to this Agreement. Notwithstanding any other extension of term under this paragraph 3 the term of this Agreement may be extended by the mutual agreement of the parties, confirmed by written notice from the City to the Consultant, to allow the completion of any work which has been commenced prior to the date upon which this Agreement otherwise would terminate. However, no extension of the Term shall increase the Maximum Contract Liability stated herein; such amount may be changed only by a duly executed written amendment to this Agreement.

### **4. COMPENSATION AND PAYMENT:**

A. Fee: The City agrees to pay to the Consultant, and the Consultant agrees to accept as its sole compensation for services rendered and costs incurred under this Agreement, the rates set forth on **Exhibit C**, “**RATES**” and as may be further described herein.

B. Reimbursement Expenses: There are no reimbursable expenses allowed under this Agreement, unless approved in writing, in advance, by the SVPs.

C. Invoicing: Consultant shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City and as more fully described in **Exhibit B**, attached hereto. The City shall pay any undisputed amounts in accordance with its obligations under the City's Prompt Payment Ordinance.

D. Maximum Contract Liability:

(i) Any other provision of this Agreement notwithstanding, in no event shall the City be liable to pay for services rendered and expenses incurred by the Consultant under the terms of this Agreement for any amount exceeding Five Million Dollars and 00 Cents (\$5,000,000.00) (the "Maximum Contract Liability"). Funding under the provisions of this paragraph 4.D. may be payable from the City's Airport System Capital 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.

**5. TAXES AND COSTS:**

A. The Consultant, at its own expense, shall promptly pay, when due, all taxes, bills, debts and obligations it incurs performing work under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against land, facilities or improvements owned by the City.

B. The City shall provide to Consultant, at no cost, all necessary clearances and permits necessary to install and/or deliver the products and/or services under Agreement. Where such clearances, permits, leases, or fees of a similar nature are required to be obtained and paid for directly by Consultant, the City shall reimburse Consultant the actual cost of such items.

C. The City affirms that it is a tax-exempt entity under the Laws of the State of Colorado and this purchase qualifies for the Denver and Colorado sales tax exemption for sales to the United States government, the State of Colorado, its departments and institutions, and its political subdivisions (county and local governmental, school districts and special districts); is a government purchase used only in an official governmental capacity; and will be paid directly by a government agency. Taking into account the City's status, Consultant confirms that all Charges are inclusive of all taxes, levies, duties and assessments ("Taxes") of every nature in effect as of

the Effective Date and due in connection with its performance of its obligations under this Agreement. Consultant is responsible for payment of such Taxes to the appropriate governmental authority.

**6. STATUS OF CONSULTANT:**

It is agreed and understood by and between the parties hereto that the status of the Consultant shall be that of an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.1(E)(x) of the Charter of the City and County of Denver, and it is not intended, nor shall it be construed, that the Consultant or its personnel are employees or officers of the City under Chapter 18 of the Revised Municipal Code for any purpose whatsoever.

**7. NO AUTHORITY TO BIND CITY TO CONTRACTS:**

The Consultant has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City as required by Charter and Ordinance.

**8. PERSONNEL ASSIGNMENTS:**

A. The Consultant shall assign a Project Manager to this Project that has experience and knowledge satisfactory to the City. The Project Manager shall be the contact person in dealing with the City's Project Manager on matters concerning this Project and shall have the authority to act for the Consultant's organization. Consultant's designated Project Manager shall remain assigned on this contract during the entire contract term, while in the employ of the Consultant, or, until such time that his performance is deemed unsatisfactory by the City and a formal written request is submitted which requests the removal of the Consultant's Project Manager.

B. The Consultant may submit and the City will consider a request for reassignment of a Project Manager, should the Consultant deem it to be in the best interest of the City, the best interest of the Consultant's organization or in the best interest of the Consultant's Project Manager.

C. If the City allows the removal of a Project Manager, the replacement Project Manager must have, at least, similar or equal experience and qualifications to that of the original Project Manager. The replacement Project Manager's assignment is subject to the approval of the SVPs

D. All key professional personnel identified by the Consultant will be assigned by the Consultant or subcontractors to perform work under the Work. The SVPs must approve additional personnel in writing. It is the intent of the parties hereto that all key professional personnel be engaged to perform their specialty for all such services required by the Work, and that the Consultant's and the sub-consultant's key professional personnel be retained for the life of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed hereunder.

E. If the Consultant decides to replace any of its key professional personnel, it shall notify the SVPs in writing of the changes it desires to make. No such replacement shall be made until the replacement is approved in writing by the SVPs, which approval shall not be unreasonably withheld. The SVPs shall respond to the Consultant's written notice regarding replacement of key professional personnel within fifteen days after the SVPs receive the list of key professional personnel, which the Consultant desires to replace. If the SVPs or the SVPs' designated representative does not respond within that time, the listed personnel shall be deemed to be approved.

F. If, during the term of this Agreement, the SVPs determine that the performance of approved key personnel is not acceptable, the SVPs shall notify the Consultant, and he may give the Consultant notice of the period of time, which the SVPs consider reasonable to correct such performance. If the SVPs notify the Consultant that certain of its key personnel should be reassigned, the Consultant will use its best efforts to obtain adequate substitute personnel within ten days from the date of the SVPs' notice.

## **9. SUBCONTRACTORS:**

A. Although the Consultant may retain, hire and contract with outside subcontractors, no final agreement or contract with any such subcontractor shall be entered into without the prior written consent of the SVPs or the SVPs authorized representative. Requests for such approval must be made in writing and include a description of the nature and extent of the services to be provided, the name, address and professional experience of the proposed subcontractor, and any other information requested by the SVPs. Any final agreement or contract with an approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make any claim of payment against the City or to file or claim any lien or encumbrance against any City property arising out of the performance or non-performance of the contract.

B. Because the Consultant's represented professional qualifications are a consideration to the City in entering into this Agreement, the SVPs shall have the right to reject any proposed outside subcontractor deemed by the SVPs, in their sole discretion, to be unqualified or unsuitable for any reason to perform the proposed services, and the SVPs shall have the right to limit the number of outside subcontractors, or to limit the percentage of Work to be performed by them, all in their sole and absolute discretion.

C. The Consultant shall not retain any subcontractor to perform work under this Agreement if the Consultant is aware, after a reasonable written inquiry has been made, that the subcontractor is connected with the sale or promotion of equipment or material which is or may be used on work related to or following on from this Agreement, or that any other conflict of interest exists.

**10. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:**

A. The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes, and Den. Rev. Mun. Code 20-90 and the Consultant is liable for any violations as provided in said statute and ordinance.

B. The Consultant certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

(2) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

C. The Consultant also agrees and represents that:

(1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(2) It shall not enter into a contract with a subcontractor or subconsultant that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.

(4) It is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it has complied with all federal requirements regarding the use of the E-Verify program, including, by way of example, requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subcontractor or subconsultant performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and the City within three days. The Consultant will also then terminate such subcontractor or subconsultant if within three days after such notice the subcontractor or subconsultant does not stop employing or contracting with the illegal alien, unless during such three day period the subcontractor or subcontractor provides information to establish that the subcontractor or subconsultant has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S. or the City Auditor under authority of Den. Rev. Mun. Code 20-90.3.

**11. NO DISCRIMINATION IN EMPLOYMENT:**

In connection with the performance of work under this Agreement, the Consultant agrees not to fail or refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Consultant further agrees to insert the foregoing provision in all subcontracts hereunder.

**12. DSBO GOALS:**

The Consultant may be subject to the City's ordinance, DRMC Chapter 28, Article III (MBE/WBE Ordinance) which prohibits discrimination in the awarding of contracts and subcontracts and directs the DSBO Director to establish goals for MBE and WBE participation in the preconstruction and construction of City-owned facilities. The goal for this Agreement is: *[N/A]*. If it is determined that project goals apply, such project goals must be met with certified MBE and WBE participants or by demonstrating good faith efforts under the MBE/WBE Ordinance. The Consultant must comply with the terms and conditions of the MBE/WBE Ordinance in soliciting and contracting with its subcontractors in administering the performance of the work hereunder. It shall be an ongoing, affirmative obligation of the Consultant to maintain, at a minimum, compliance with the originally achieved level of MBE/WBE participation upon which this Agreement was awarded, for the duration of this Agreement, unless the City initiates a material alteration to the scope of work.

**13. PREVAILING WAGES:**

Employees of the Consultant or its subcontractors may be subject to the payment of prevailing wages pursuant to D.R.M.C. 20-76, depending upon the nature of the Work. By executing this Agreement, the Consultant covenants that it is familiar with this Code Section and is prepared to pay or cause to be paid prevailing wages, if any, applicable to the work conducted by the Consultant's or its subcontractor's employees. The schedule of prevailing wage is periodically updated and Consultant is responsible for payment of then current prevailing wage. The Consultant may obtain a current schedule of prevailing wage rates at any time from the City Auditor's Office.

**14. PROMPT PAY:**

The Consultant is subject to D.R.M.C. Section 20-112 wherein the Consultant is to pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven days after receipt of any payment from City. Any late payments are subject to a late payment penalty as provided for in the prompt pay ordinance (Section 20-107 through 20-118).



**15. CITY REVIEW OF PROCEDURES:**

The Consultant agrees that, upon request of the SVPs, at any time during the term of the Agreement or three years thereafter, it will make full disclosure to the City of the means, methods, and procedures used in performance of services hereunder.

**16. COORDINATION OF SERVICES:**

The Consultant agrees to perform its work under this Agreement in accordance with the operational requirements of DEN, and all work and movement of personnel or equipment on areas included within the DEN site shall be subject to the regulations and restrictions established by the City or its authorized agents.

**17. INSURANCE:**

A. The Consultant shall obtain and keep in force during the entire term of this Agreement, including any warranty periods, all of the minimum insurance coverage forms and amounts set forth in **Exhibit D**, which is incorporated into this Agreement by this reference. The Consultant shall submit to the City fully completed and executed certificates of insurance (ACORD form or equivalent approved by the City) which specifies the issuing company or companies, policy numbers and policy periods for each required form of coverage. The certificates for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf, and must be submitted to the City at the time the Consultant signs this Agreement.

B. All certificates and any required endorsements must be received and approved by the City before any work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project, including any warranty periods. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of the Agreement. All subcontractors' work shall also be subject to the minimum requirements identified in **Exhibit D**. All subcontractors' certificates and endorsements must be received and approved by the Consultant before work commences. The City reserves the right to request copies of these certificates at any time.

C. All certificates required by this Agreement shall be sent directly to Denver International Airport, Risk Management, Airport Office Building, Room 8810, 8500 Pena Boulevard, Denver, Colorado 80249. The City Project/Agreement number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

D. The City's acceptance of any submitted insurance certificate is subject to the approval of the City's Risk Management Administrator. All coverage requirements specified in the certificate shall be enforced unless waived or otherwise modified in writing by the City's Risk Management Administrator.

E. The Consultant shall comply with all conditions and requirements set forth in the insurance certificate for each required form of coverage during all periods in which coverage is in effect.

F. The insurance coverage forms specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Consultant under the terms of this Agreement, including the Indemnification provisions herein. The Consultant shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

## **18. DEFENSE AND INDEMNIFICATION:**

A. Consultant hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees 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 Consultant 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. Consultant’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. Consultant’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. Consultant 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 Consultant under the terms of this indemnification obligation. The Consultant 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.

## **19. COLORADO GOVERNMENTAL IMMUNITY ACT:**

The parties hereto understand and agree that the City and County of Denver, its officers, officials and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the City and County of Denver, its officers, officials and employees.

## **20. INTELLECTUAL PROPERTY INDEMNIFICATION AND LIMITATION OF LIABILITY:**

Consultant shall (i) defend City against any third party claim that the Work, or materials provided by Consultant to City infringe a patent, copyright or other intellectual property right, and (ii) pay the resulting costs and damages finally awarded against City by a court of competent jurisdiction or the amounts stated in a written settlement signed by Consultant. The foregoing obligations are subject to the following: the City (a) notifies the Consultant promptly in writing of such claim, (b) grants the Consultant sole control over the defense and settlement thereof subject to the final approval of the City Attorney, and (c) reasonably cooperates in response to request for assistance. Should such a claim be made, or in the Consultant's opinion be likely to be made, the Consultant may, at its option and expense, (1) procure for the City the right to make continued use thereof, or (2) replace or modify such so that it becomes non-infringing. If the preceding two options are commercially unreasonable, then Consultant shall refund the portion of any fee for the affected Work. The Consultant shall have no indemnification obligation to the extent that the infringement arises out of or relates to: (a) the use or combination of the subject Work and/or materials with third party products or services, (b) use for a purpose or in a manner for which the subject Work and/or materials were not designed in accordance with Consultant's standard documentation; (c) any modification to the subject Work and/or materials made by anyone other than the Consultant or its authorized representatives, if the infringement claim could have been avoided by using the unaltered version of the Work and/or materials, (d) any modifications to the subject Work and/or materials made by the Consultant pursuant to the City's specific instructions, or (e) any technology owned or licensed by the indemnitee from third parties. THIS SECTION STATES THE INDEMNITEE'S SOLE AND EXCLUSIVE REMEDY AND THE INDEMNITOR'S ENTIRE LIABILITY FOR THIRD PARTY INFRINGEMENT CLAIMS.

## **21. INTELLECTUAL PROPERTY RIGHTS; OWNERSHIP OF HARDWARE AND SOFTWARE:**

A. Ownership: The City and Consultant intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Consultant and paid for by the City pursuant to this Agreement, in preliminary or final forms and on any media (collectively, "Materials"), shall belong to the City. The Consultant shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, et seq., the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a

“work made for hire,” the Consultant hereby sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark and other intellectual property rights in perpetuity. Upon the City’s written concurrence that the hardware and software are satisfactorily installed and payment to the Consultant by City under the terms of this Agreement, title to the hardware shall automatically pass to the City.

B. Reservation of Rights: Consultant reserves all rights not expressly granted to City in this Agreement. Except as expressly stated, nothing herein shall be construed to: (1) directly or indirectly grant to a receiving party any title to or ownership of a providing party’s intellectual property rights in services or materials furnished by such providing party hereunder, or (2) preclude such providing party from developing, marketing, using, licensing, modifying or otherwise freely exploiting services or materials that are similar to or related to the Work or materials provided hereunder. Notwithstanding anything to the contrary herein, City acknowledges that Consultant has the right to use any City provided materials solely for the benefit of City in connection with the Work performed hereunder for City.

## **22. OWNERSHIP OF WORK PRODUCT:**

Except as otherwise set forth at paragraph 21, above, all plans, drawings, reports, other submittals, and other documents submitted to the City or its authorized agents by the Consultant shall become and are the property of the City, and the City may, without restriction, make use of such documents and underlying concepts as it sees fit. The Consultant shall not be liable for any damage which may result from the City’s use of such documents for purposes other than those described in this Agreement.

## **23. COMPLIANCE WITH PATENT, TRADEMARK, COPYRIGHT AND SOFTWARE LICENSING LAWS:**

A. The Consultant agrees that all work performed under this Agreement shall comply with all applicable patent, trademark, copyright and software licensing laws, rules, regulations and codes of the United States. The Consultant will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission and all releases and other necessary documents. If the Consultant prepares any design documents which specify any material, equipment, process or procedure which is protected, the Consultant shall disclose such patents, trademarks and copyrights in the construction drawings or specifications.

B. The Consultant further agrees to release, indemnify and save harmless the City, its officers, agents and employees, pursuant to Paragraph 18, "Defense and Indemnification," and Paragraph 20, “Intellectual Property Indemnification and Limitation of Liability,” from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which violates or infringes upon any patent, trademark, copyright or software license protected by law, except in cases where the Consultant's personnel are working under the direction of City personnel and do not have direct

knowledge or control of information regarding patents, trademarks, copyrights and software licensing.

**24. SOFTWARE SOURCE CODE ESCROW:**

*Not Applicable.*

**25. ADVERTISING AND PUBLIC DISCLOSURES:**

The Consultant shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the CEO. Any oral presentation or written materials related to DEN shall include only presentation materials, work product, and technical data which have been accepted by the City, and designs and renderings, if any, which have been accepted by the City. The CEO shall be notified in advance of the date and time of any such presentations. Nothing herein, however, shall preclude the Consultant's use of this contract and its component parts in GSA form 254 or 255 presentations, or the transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO, any member or members of City Council, and the Auditor.

**26. COLORADO OPEN RECORDS ACT:**

The Consultant acknowledges that the City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes §24-72-201 et seq., and the Consultant agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such act for the disclosure of any materials or information which the Consultant asserts is confidential and exempt from disclosure. Any other provision of this Agreement notwithstanding, including exhibits, attachments and other documents incorporated into this Agreement by reference, all materials, records and information provided by the Consultant to the City shall be considered confidential by the City only to the extent provided in the Open Records Act, and the Consultant agrees that any disclosure of information by the City consistent with the provisions of the Open Records Act shall result in no liability of the City.

**27. DATA CONFIDENTIALITY:**

A. For the purpose of this Agreement, confidential information means any information, knowledge and data marked "Confidential Information" or "Proprietary Information" or similar legend. All oral and/or visual disclosures of Confidential Information shall be designated as confidential at the time of disclosure, and be summarized, in writing, by the disclosing Party and given to the receiving Party within thirty (30) days of such oral and/or visual disclosures.

B. The disclosing Party agrees to make known to the receiving Party, and the receiving Party agrees to receive Confidential Information solely for the purposes of this Agreement. All Confidential Information delivered pursuant to this Agreement:

(i) shall not be distributed, disclosed, or disseminated in any way or form by the receiving Party to anyone except its own employees, corporate partners, affiliates and alliance partners who have a need to know said Confidential Information;

(ii) shall be treated by the receiving Party with the same degree of care to avoid disclosure to any third Party as is used with respect to the receiving Party's own information of like importance which is to be kept confidential.

C. These obligations shall not apply, however, to any information which:

(i) is already in the public domain or becomes available to the public through no breach of this Agreement by the receiving Party; or

(ii) was in the receiving Party's possession prior to receipt from the disclosing Party; or

(iii) is received by the receiving Party independently from a third Party free to disclose such information; or

(iv) is subsequently independently developed by the receiving Party as proven by its written records; or

(v) is disclosed when such disclosure is compelled pursuant to legal, judicial, or administrative proceeding, or otherwise required by law, subject to the receiving Party giving all reasonable prior notice to the disclosing Party to allow the disclosing Party to seek protective or other court orders.

D. Upon the request from the disclosing Party, the receiving Party shall return to the disclosing Party all Confidential Information, or if directed by the disclosing Party, shall destroy such Confidential Information.

## **28. EXAMINATION OF RECORDS:**

A. The Consultant agrees that the City's duly authorized representatives, including but not limited to the City's Auditor, shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the Consultant involving this Agreement.

B. In connection with any services performed hereunder on items of work toward which federal funds may be received under the Airport and Airway Development Act of 1970, as amended, the City, the Federal Aviation Administration, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Consultant which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. The Consultant further agrees that such records will contain information concerning the personnel, hours and specific tasks performed, along with the applicable federal project number.

## **29. INFORMATION FURNISHED BY CITY:**

The City will furnish to the Consultant available information concerning DEN and any such other matters that may be necessary or useful in connection with the work to be performed by the Consultant under this Contract. The Consultant shall be responsible for the verification of the information provided to the Consultant.

## **30. TERMINATION:**

A. The City has the right to terminate this Agreement without cause on thirty (30) days written notice to the Consultant, and with cause on ten (10) days written notice to the Consultant. However, nothing herein shall be construed as giving the Consultant the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the CEO.

B. If the Consultant is discharged before all the services contemplated hereunder have been completed, or if the Consultant's services are for any reason terminated, stopped or discontinued because of the inability of the Consultant to provide service under this Agreement, the Consultant shall be paid only for those services satisfactorily performed prior to the time of termination.

C. If this Agreement is terminated, the City shall take possession of all materials, equipment, tools and facilities owned by the City which the Consultant is using by whatever method it deems expedient, and the Consultant shall deliver to the City all drafts or other documents it has completed or partially completed under this Agreement, together with all other items, materials and documents which have been paid for by the City, and these documents and materials shall be the property of the City.

D. Upon termination of this Agreement by the City, the Consultant shall have no claim of any kind whatsoever against the City by reason of such termination or by reason of any act incidental thereto, except as follows: if the termination is for the convenience of the City the Consultant shall be entitled to reimbursement for the reasonable cost of the Work to the date of termination, including multiplier, and reasonable costs of orderly termination, provided request for such reimbursement is made no later than six (6) months from the effective date of termination. The Consultant shall not be entitled to loss of anticipated profits or any other consequential damages as a result of any such termination for convenience, and in no event shall the total sums paid exceed the Contract Amount.

## **31. RIGHTS AND REMEDIES NOT WAIVED:**

In no event shall any payment by the City hereunder constitute or be construed to be a waiver by the City of any breach of covenant or default which may then exist on the part of the Consultant, and the making of any such payment when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the City with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants,

provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

**32. SURVIVAL OF CERTAIN CONTRACT PROVISIONS:**

The parties understand and agree that all terms and conditions of this Agreement, including any warranty provision, which by reasonable implication contemplate continued performance or compliance beyond the termination of this Agreement (by expiration of the term or otherwise) shall survive such termination and shall continue to be enforceable as provided herein.

**33. NOTICES:**

Notwithstanding any other provision of this Agreement, notices concerning termination of this Agreement, notices of alleged or actual violations of the terms of this Agreement, and other notices of similar importance shall be made as follows:

by Consultant to: CEO, Department of Aviation  
Denver International Airport  
8500 Peña Boulevard, 9th Floor  
Denver, Colorado 80249-6340

And by City to: The JW Group, Inc.  
415 McFarlan Road  
Kennett Square, PA 19348

Said notices shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification thereof.

**34. NO THIRD PARTY BENEFICIARIES:**

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the City and the Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the City and the Consultant that any person other than the City or the Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**35. ASSIGNMENT:**

The Consultant shall not assign, pledge or transfer its duties and rights under this Agreement, in whole or in part, without first obtaining the written consent of the CEO. Any



attempt by the Consultant to assign or transfer its rights hereunder without such prior written consent shall, at the option of the CEO, automatically terminate this Agreement and all rights of the Consultant hereunder. Such consent may be granted or denied at the sole and absolute discretion of the CEO.

**36. CONFLICT OF INTEREST:**

The Consultant agrees that it and its subsidiaries, affiliates, subcontractors, principals, or employees will not engage in any transaction, activity or conduct which would result in a conflict of interest. The Consultant 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 Consultant by placing the Consultant's own interests, or the interest of any party with whom the Consultant has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement if such a conflict exists, after it has given the Consultant written notice which describes such conflict. The Consultant shall have thirty days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

**37. GOVERNING LAW; BOND ORDINANCES; VENUE; DISPUTES:**

A. This Agreement is made under and shall be governed by the laws of Colorado. Each and every term, provision or condition herein is subject to the provisions of Colorado law, the Charter of the City and County of Denver, and the ordinances and regulations enacted pursuant thereto. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

B. This Agreement is in all respects subject and subordinate to any and all City bond ordinances applicable to the Denver Municipal Airport System and to any other bond ordinances which amend, supplement, or replace such bond ordinances.

C. All disputes between the City and Consultant regarding this Agreement shall be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 5-17.

**38. COMPLIANCE WITH ALL LAWS AND REGULATIONS:**

All of the work performed under this Agreement by the Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado, the charter, ordinances and rules and regulations of the City and County of Denver, and all Denver International Airport Rules and Regulations.

**39. FEDERAL PROVISIONS:**

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal

rights or property to the City for airport purposes and the expenditure of federal funds for the extension, expansion or development of the Denver Municipal Airport System, including DEN. The provisions of the attached APPENDIX - Federal Aviation Administration Required Contract Provisions are incorporated herein by reference.

**40. AIRPORT SECURITY / SENSITIVE SECURITY INFORMATION (“SSI”):**

A. It is a material requirement of this Contract that the Consultant shall comply with all rules, regulations, written policies and authorized directives from the City and/or the Transportation Security Administration with respect to Airport security. The Consultant shall conduct all of its activities at the Airport in compliance with the Airport security program, which is administered by the Security Section of the Airport Operations Division, Department of Aviation. Violation by the Consultant or any of its employees, subcontractors or vendors of any rule, regulation or authorized directive from the City or the Transportation Security Administration with respect to Airport Security shall be grounds for immediate termination by the City of this Contract for cause.

B. The Consultant shall promptly upon notice of award of this Contract, meet with the Airport’s Assistant Security Manager to establish badging and vehicle permit requirements for the Consultant’s operations under this Contract. The Consultant shall obtain the proper access authorizations for all of its employees, subcontractors and vendors who will enter the Airport to perform work or make deliveries, and shall be responsible for each such person’s compliance with all Airport rules and regulations, including without limitation those pertaining to security. Any person who violates such rules may be subject to revocation of his/her access authorization. The failure of the Consultant or any subcontractor to complete any required services hereunder shall not be excused on account of the revocation for good cause of access authorization of any person.

C. The security status of the Airport is subject to change without notice. If the security status of the Airport changes at any time during the term of this Contract, the Consultant shall take immediate steps to comply with security modifications which occur as a result of the changed status. The Consultant may at any time obtain current information from the Airport Security Office regarding the Airport’s security status in relation to the Consultant’s operations at the Airport.

D. The Consultant shall return to the City at the expiration or termination of this Contract, or upon demand by the City, all access keys or access badges issued to it or any subcontractor for any area of the Airport, whether or not restricted. If the Consultant fails to do so, the Consultant shall be liable to reimburse the City for all the City’s costs for work required to prevent compromise of the Airport security system. The City may withhold funds in the amount of such costs from any amounts due and payable to the Consultant under this Contract.

E. Consultant acknowledges that, in the course of performing its work under this Agreement, that it may be given access to Sensitive Security Information (“SSI”), as that material is described in federal regulations, 49 C.F.R. part 1520. Consultant specifically agrees to comply with all requirements of the applicable federal regulations and DEN Standard Policy and Procedure 10003. Consultant understands any questions it may have regarding its obligations with respect to SSI must be referred to the Deputy Manager or his or her designated representative.

**41. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:**

The Consultant and Consultant’s agents shall cooperate and comply with the provisions of the City and County of Denver Executive Order No. 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City’s barring the Consultant and Consultant’s agents from City facilities or participating in City operations.

**42. CITY SMOKING POLICY:**

Consultant acknowledges that smoking is not permitted in Airport buildings and facilities except for designated Airport Smoking Concessions, and so agrees that it will prohibit smoking by its employees and the public in indoor areas and within 15 feet of entryways of the Airport Premises, except as may otherwise be permitted by the Colorado Clean Indoor Air Act, C.R.S. §§ 25-14-201 to 209. Consultant and its officers, agents, and employees shall cooperate and comply with the provisions of the Denver Revised Municipal Code, §§ 24-301 to 317 et. seq., the Colorado Clean Indoor Air Act, C.R.S. §§ 25-14-201 to 209, City’s Executive Order No. 99 dated December 1, 1993, and Executive Order No. 13 dated July 31, 2002.

**43. PARAGRAPH HEADINGS:**

The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

**44. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:**

This Agreement consists of Sections 1 through 51 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference (the “Contract Documents”):

Appendix:	Federal Aviation Administration Required Contract Provisions
Exhibit A:	Scope of Work
Exhibit B:	SCHEDULING, PROGRESS REPORTING, INVOICING AND CORRESPONDENCE CONTROL
Exhibit C:	Rates
Exhibit D:	Certificate of Insurance

In the event of an irreconcilable conflict between a provision of Sections 1 through 51 and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

Appendix  
Sections 1 through 51 hereof

Exhibit A  
Exhibit B  
Exhibit C  
Exhibit D

**45. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS:**

This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement properly executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

**46. INUREMENT:**

The rights and obligations of the parties herein set forth shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns permitted under this Agreement.

**47. FORCE MAJEURE:**

Neither party shall be liable for any failure to perform any of its obligations hereunder due to or caused by, in whole or in part, fire, strikes, lockouts, unusual delay by common carriers, unavoidable casualties, war, riots, acts of terrorism, acts of civil or military authority, acts of God, judicial action, or any other causes beyond the control of the parties. Both parties shall have the duty to take reasonable actions to mitigate or prevent further delays or losses resulting from such causes.

**48. SEVERABILITY; ENTIRE AGREEMENT:**

If any part, portion or provision of this Agreement shall be found or declared null, void, or unenforceable for any reason whatsoever by any court of competent jurisdiction or any governmental agency having applicable authority, only such part, portion, or provision shall be affected thereby and all other parts, portions and provisions of this Agreement shall remain in full force and effect. The Contract Documents form the entire agreement between the parties and are fully binding on the parties. No oral representations or other agreements have been made except as specifically stated in the Contract Documents.

**49. COUNTERPARTS OF THIS AGREEMENT:**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement.

**50. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:**

Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the 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 the 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.

**51. CITY EXECUTION OF AGREEMENT:**

This Agreement is expressly subject to and shall not be or become effective or binding on the City until it has been approved by City Council, if so required by law, and fully executed by all signatories of the City and County of Denver.

**[SIGNATURE PAGE FOLLOWS]**

**Contract Control Number:**

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:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



Contract Control Number: PLANE-201839581-00

Contractor Name: THE JW GROUP INC

By: 

Name: JAMES A. WILLIS  
(please print)

Title: PRESIDENT  
(please print)

**ATTEST: [if required]**

By: 

Name: HAN PAK  
(please print)

Title: PRINCIPAL  
(please print)



## APPENDIX

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

Federal laws and regulations require that recipients of federal assistance (Sponsors) include specific contract provisions in certain contracts, requests for proposals, or invitations to bid.

Certain provisions must be included in all sponsor contracts, regardless of whether or not the contracts are federally-funded. This requirement was established when a sponsor accepted the Airport Improvement Program (AIP) grant assurances.

As used in these Contract Provisions, “Sponsor” means The City and County of Denver, Department of Aviation, and “Contractor” or “Consultant” means the Party of the Second Part as set forth in Contract Number PLANE **201839581**

#### GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.



## APPENDIX

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

## APPENDIX

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

#### FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The [*contractor / consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*contractor / consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

## **APPENDIX**

### **Federal Aviation Administration Required Contract Provisions**

#### **ALL CONTRACTS – NON-AIP FUNDED**

##### **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

# ON-CALL ELECTRONIC AND COMMUNICATION SYSTEMS SUPPORT SERVICES

## EXHIBIT A

<b>SCOPE OF WORK</b>
<b>CONTRACT NUMBER 201839581</b>

### 1. Introduction

The On-Call Electronic and Communications System Support Services Consultant, hereby referred to as Consultant, as required by the Senior Vice President of Business Technologies, will provide Professional Engineering Services to perform formal and incidental design, software support, project management, computer aided drafting, technical documentation, assessments, and other engineering assignments for projects related to electronics and technology systems at Denver International Airport (DEN).

### 2. Description of the Project

The professional services support required under this scope of work shall include the provisioning of qualified engineering staff to perform design, project management, software support, computer aided drafting, technical documentation, and assessments for new and ongoing projects in the area of electronics technology systems at Denver International Airport. This work may require a combination of full-time support staff located at the airport and specialty staff that is available for specific task-based activities.

### 3. SCOPE OF WORK

#### 3.1 General

3.1.1 The Consultant will be required to provide staff, both on-site and on an on-demand basis to address various elements of work. The on-demand nature of the contract will allow DEN to staff up or staff down depending upon the needs of the project and workload at hand. On-site staff shall be utilized for formal and incidental design work, project management for specific communication projects, and as augmentation to DEN's Technology staff. Office and limited support facilities will be provided by DEN for full-time, on-site Consultant staff. Telephony, office computers, access to standard office and DEN applications, file shares, and printing facilities are included in the limited support facilities for Consultants designated as on-site staff. On-demand staff is expected to have little to no support facilities located at DEN and may be required to perform work in an off-site capacity with exceptions such as required visits to DEN in order to complete the nature of work tied to a specific Task Order.

3.1.2 Consultant staff utilized for some Task Order work may be located off site. Work on these projects may be designed and managed from the Consultant's own local office with trips to DEN for meetings, field investigations, inspections and other activities relative to the task-based project.

3.1.3 The Consultant for this work will be required to design, modify and coordinate all inside plant, outside plant, and facility improvements to support all airport voice, data, and network services. This work shall include all type of cabling and services needed to support each of the systems listed below. The City shall retain ownership and rights to all work product produced by the Consultant under this Agreement. This is not an all-inclusive list and the Consultant may be required to work with other new or existing systems at DEN.

3.1.4 DEN Electronic Systems

<p>Access Control and Badging  Aircraft and Vehicle Location and Tracking Systems  Automatic Vehicle Identification  Beacons (Wireless Location Based Services)  Broadcast Origination  Building and Perimeter Security Building Management  Cable Television  Clock and Timing  Closed Circuit Television  Common Use Terminal Equipment  Communications Centers  Conference Room A/V Equipment  Courtesy Telephones  Data Centers and Communication Rooms  Defibrillator Stations  Differential GPS  Doppler Weather Radar  Duress Alarms  Dynamic Signage  Emergency Communications System  Fire Alarm and Detection  Flight/Baggage/Gate Information Display</p>	<p>Garage Count/Dynamic Signage  Inside and Outside Plant Design  Local, Metropolitan and Wide Area Networks  Logging Recorders  Meteorological Instrumentation  Microwave Radio Networks  Parking and Revenue Control  Passive Optical Networks  Pay Telephones  Public Address and Paging Systems  Radio Paging Systems  Radio Frequency Coordination  Radio Frequency Distribution Network (Life Safety and Cellular Distributed Antenna Systems)  Satellite Communications  Software Development  SONET / DSCS*s Networks  System Control and Data Acquisition  Systems Integration  Taxi and Commercial Vehicle Staging  Telephone Systems and Mass Notification Systems  Travelers Information Radio  Trunked Radio  Vehicle Tracking  Wi-Fi</p>
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## **3.2 SPECIFIC ELEMENTS OF WORK**

### **3.2.1 Budget and Planning**

3.2.1.1 The Consultant shall assist in the DEN budget and planning process as it relates to the implementation, maintenance, expansion or replacement of electronics, IT and Telecommunication systems. This assistance shall include identification of projects, preparation of budgetary estimates, and prioritization of projects, project planning documents and participation in planning and budget meetings.

### **3.2.2 Definition of Project Requirements**

3.2.2.1 The Consultant shall assist DEN staff in the definition of requirements for electronics, IT and Telecommunication projects, whether stand-alone or as part of a larger project. The Consultant shall be required to formalize these requirements into scope of work documents for implementation by internal airport staff or include these requirements in design criteria for larger projects to be designed and executed by others.

3.2.2.2 The Consultant shall monitor these requirements through completion, reporting to DEN management on progress and issues. The Consultant shall maintain a database of action items, responsible parties and originators of requirements as a vehicle for monitoring and reporting progress. The Consultant will be required to follow the standard project delivery methodology employed by the Business Technologies Division Project Management Office (PMO) and track and report on status accordingly. Use of tools and project management software within the DEN PMO methodology may constitute as a suitable substitute to maintaining a separate database of action items.

### **3.2.3. Incidental Design**

3.2.3.1 The Consultant shall perform incidental design work as requested by DEN management. This work shall include field investigation, production of drawings, procurement documents and other materials, which may be required. Work may also include generation of design documents, updating of standards, and system documentation.

3.2.3.2 Incidental design work is generally produced for execution by internal DEN maintenance or contract staff, for inter-department design coordination or record-keeping purposes. Occasionally this work will require the involvement of a Colorado Registered Professional Engineer when required for permitting purposes.

### **3.2.4. Task Order Work**

3.2.4.1 Certain design projects will be assigned to the Consultant on a Task Order basis. These task orders will require the Consultant to perform a well-defined scope of work which may involve field investigation, analysis, design, production of contract documents, bidding and negotiation support and construction administration. Task orders generally address a well-defined scope of work with well-defined deliverables and outcome. The Consultant will be given a finite time and a maximum fee for performing work under each task order.

### **3.2.5. Project Management**

3.2.5.1 The airport generally has one or more large scale design / construction projects in progress at any time. These projects involve teams of architects, engineers and other designers with varying degrees of familiarity with DEN and its special systems and requirements.

3.2.5.2 The Consultant shall coordinate with third party designers on large multi- discipline projects to ensure that:

1. DEN departmental and end user requirements are incorporated into the third party designer's work. This includes coordination with appropriate subject matter experts within DEN staff.
2. The systems designed by the third party Consultant are in compliance with DEN design guidelines and technical requirements.
3. The systems designed for the project correctly interface with existing portions of the DEN network and correctly utilize common infrastructure elements such as the DEN Premise Wiring and Communications System.

3.2.5.3 The Consultant shall review the third party designer's work prior to bid to ensure that the design fully complies with the items in 3.2.5.2 above.

3.2.5.4 The Consultant shall, if requested, participate in any value engineering or cost reduction exercises to ensure that changes to the design do not adversely affect the ability of DEN to effectively operate or maintain the systems in question.

3.2.5.5 The Consultant shall, if requested, manage the implementation of any project as assigned by the Business Technologies Senior Vice President, or his / her representative.

3.2.5.6 The Consultant shall participate in project meetings, design sessions and other activities where systems issues are discussed or as assigned by DEN to represent the best interests of DEN and to coordinate various technology aspects of the project.

3.2.5.7 The Consultant shall act on behalf of DEN in all system testing, commissioning and acceptance activities.

### **3.2.6. Staff Augmentation**

3.2.6.1 When requested, the Consultant shall serve as a functional extension of DEN staff. These activities may include participation in internal electronic systems design and planning sessions, project management, contract administration, estimation, scope builds, systems, drawings and technical documentation, management meetings, contract dispute resolution, or any other activity where the DEN requires the Consultant's services.

3.2.6.2 The Consultant shall also provide specially assigned staff for specific purposes as directed by DEN Management. This type of assignment may include such specialty areas as data systems administrator, 24-hour on-call system support or applications development support.

3.2.6.3 The staff augmentation requirement for this scope of work is intentionally broad, allowing DEN management to direct the Consultant's activities to meet the changing needs of the airport. In addition to electronic, IT and Telecommunications engineers, this contract is broad in that it allows for the on-call Consultant to bring other required skills to the contract pending the nature of the project work when it makes sense to bundle the task order. Additions to the job titles and their respective hourly rates will be allowed as parties mutually agree to these additions.

3.2.6.4 Due to the day to day workload, it may be required that "on-site" employees perform their work week on the DEN campus job site. Off-site employees will be required to come on-site as required to complete work related to the Task Order issued.

3.2.6.5 Consultant staff working at DEN shall be required to follow specific work flow practices like other City employees. Examples include but are not limited to project management discipline following DEN specific project delivery methodology and use of tools such as SharePoint, MS Project On-Line, and Project Web Access for reporting on project status and production of reports and task management, or use of work flow ticketing systems like Service Now (AskIT).

3.2.6.6 The following tables represent the anticipated mix of on-site versus off-site job titles and responsibilities. DEN management will manage the mix of staff on an as needed basis between the two. Generally, the on-site designated employees are considered as staff augmentation and off-site employees are on-demand tied to a specific Task Order and unique statement of work. On-site employees can also be tied to specific Task Orders as well.

**Table 3.1**

<b>On-Site</b>	<b>Off-Site</b>
<b>Job Title:</b>	<b>Job Title:</b>
Program Manager / Sr. Project Manager	Program Manager / Sr. Project Manager
Technology Practice Leader	Sr. Airport Planner/Consultant
Sr. Airport Planner/Consultant	QA / QC Manager
Sr. Systems Specialist	Project Manager
Project Manager	Sr. Electrical Engineer
Communications System Designer	Sr. Communications Designer
Network Security Engineer	Sr. Systems Specialist
Network Engineer	Communications System Designer
Telecommunications Administrator	Systems Specialist
Senior Contract Administrator	Sr. Architect
Contract Administrator	Architectural Designer
CADD Technician	Sr. Mechanical Engineer
Administrative Assistant	Mechanical Designer
	Electrical Engineer
	Cost Estimator
	Scheduler
	CAD / FTP Manager
	CAD Technician
	CAD Drafter
	Project Assistant
	Word Processing



3.2.6.7 The Consultant will provide resumes of all prospective employees whether performance is in a role of staff augmentation or Task Order work prior to work start. DEN Management reserves the right to review all resumes for appropriate experience and conduct interviews prior to bringing prospective employees onto the DEN staff.

#### **4. AVAILABLE DOCUMENTS**

The Senior Vice President of Business Technologies or representative may make available items described herein to the Consultant as needed and available.

- Drawings and maps of Project Areas
- Design or “Record Drawings” of Project Area
- Reproducible “Background” drawings
- Technical Standards and Guidelines

The Consultant may be required to update documentation as part of the scope of individual project efforts.

#### **5. PROGRESS REPORTS / TREND ANALYSIS**

The Consultant shall prepare a report each month at months end (i.e. the “Monthly Report”), or more frequently if directed by the City, which provides all information outlined in Exhibit B of this Agreement.

#### **6. SPECIFIC CONSULTANT QUALIFICATIONS REQUIRED**

In addition to design proficiency with the systems identified in 3.1.4, the Consultant shall have a minimum of 3 years demonstrated experience in a large scale airport campus in the following areas:

- Local area network: Design and master planning; experience in IP addressing and routing master plans, multicast architectures, familiarity with all major routing protocols, switching architectures and ancillary services such as DSL, Wireless LAN and point-to-point wireless networks. System planning and implementation of Gigabit Ethernet Architecture including physical, protocol, and addressing components.
- In planning and design of airport inside / outside plant communications systems cabling and pathways including conduit systems, duct banks, and cable tray as well as cable placement, splicing and terminate of fiber optic and copper transmission media in accordance with regulated telephone company practices, and national practices such as TIA/EIA published Standards including 568B, 569B, 606B, and 607A. Use of current AutoCad or DEN CAD software to maintain system as-builts and assist in construction projects.
- Consultant shall have Cisco Certified Design Professional (CCDP) certification or equivalent in non-certified training; shall have certification as a Registered Communications Distribution Designer (RCDD) in commercial systems designs; shall be a BICSI Registered LAN specialist or equivalent.

- In planning and implementing large scale airport security systems for Federal Aviation Regulation (FAR) 107 compliance; in planning and implementing large scale airport campus Video Management Systems (VMS) formerly known as the Closed Circuit TV (CCTV) systems; in planning and implementing large scale airport electrical, radio, visual display and communications systems.
- In broadband television design experience in large airport campus cable television environments using optical head-end equipment, single mode plant inside/outside plant distribution and traditional RF distribution design to end users.
- In large scale access control and VMS networks including digital video storage and retrieval, with both centralized switching and distributed IP cameras with centralized Storage Area Network (SAN) storage.
- In the design of 49CFR 1542 compliant access control systems and be fully familiar with the requirements of RTCA/DO-230A Standards for Airport Security Access Control Systems, and the TSA guidance documents regarding Biometrics for Airport Access Control. Contractor shall address possible applicability and implementation of Transportation Security Administration (TSA) future requirements for airport access control systems, perimeter security, and vehicle gate security/inspection technologies to future airport security systems design.
- In design of large scale public address and sound reinforcement systems including test and measurement of speech intelligibility, coverage modeling and noise sensing. Innovative Electronics Design (IED) systems certifications are advantageous.
- In highly reflective acoustic environments and interfaces into life safety systems in airport facilities. A working knowledge of Speech Transmission Index (STI) ratings and Common Intelligibility Scale (CIS) required.
- In design and implementation of electronic, IT, and Telecommunications systems that also integrate with Life Safety and Fire Alarm systems. Experience in interpretation and incorporation of NFPA and NEC code requirements into system designs.
- In airport master planning for electronic systems; in design of large scale airport electronic system projects; in budgeting, cost estimating and construction management of large airport campus electronic systems improvement projects.

**End of Exhibit**

**Exhibit B, Scheduling, Progress Reporting, Invoicing and Correspondence Control**

Exhibit B

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**PROFESSIONAL SERVICES**

SCHEDULING, PROGRESS REPORTING,  
INVOICING AND CORRESPONDENCE CONTROL

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Revised: December 2014

**City and County of Denver**

D e n v e r   I n t e r n a t i o n a l   A i r p o r t

## Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control

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## PURPOSE

The purpose of this Exhibit B is to provide consultants with specific guidelines and instructions for preparing and submitting invoices. These guidelines are not meant to be all inclusive or apply in all instances. Flexibility shall be allowed at the discretion of the Project Manager. Consultants shall **reference the appropriate section** as determined by the Project Manager or other authorized designee and will be maintained through the entire term of the agreement.

## TASK ORDER- WORK ORDER

### 1. Introduction

**1.1** This Exhibit B provides a guideline and describes the Consultant's obligations to prepare and submit schedules, budgets, invoices, and progress reports, and to control correspondence. The Consultant shall prepare invoices that are based on its progress toward completing the Consultant's Task Order or hourly wages toward Work Orders. The Consultant schedules the work and identifies the resources (costs and man-hours), which will be required to complete each scheduled phase of a Task Order or Work Order. All expenses will be approved by the Project Manager or designee prior to being incurred by the Consultant through rates and terms called out in an approved Task Order, Work Order, and attachments herein to Exhibit B.

**1.2** Task Orders are typically used surrounding a Scope of Work. Work Orders are typically issued as a form of staff augmentation. In the case of Work Orders, these approved staff are embedded within Technologies teams to complete duties and responsibilities as out lined in Attachment F. Invoicing for Work Order employees shall include timecards for the period invoiced. Task Orders shall list resources and total them for each phase of the Task Order. The Consultant then measures monthly progress and prepares invoices on the basis of payment alternatives, which the Consultant must propose for written approval for each Task Order as described in Section Three (3) of this Exhibit B.

**1.3** The Consultant shall be paid on its progress toward completing a task shown on its work schedule for that Task Order. Submittal of time sheets is required concurrent with the submittal of each invoice. Payments for each Task Order will be calculated in accordance with the payment method set forth in each Task Order pursuant to Section three (3) of this Exhibit B, and shall not exceed the Not-to-Exceed amount allocated to that Task Order unless modified by a revised Task Order/Change Order.

**1.4** The City shall have the right to audit all payments made to the Consultant under this Agreement. Any payments to the Consultant which exceed the amount to which the Consultant is entitled under the terms of this Agreement will be subject to set-off and not approved for payment.

**1.5** The Consultant will keep and retain records relating to this Agreement and will make such records available upon request to representatives of the City, at reasonable times during the performance of this Agreement and for at least six (6) years after termination of this Agreement for purposes of audit, inspection, copying, transcribing and abstracting.

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control**

**1.6** The Consultant will furnish, or cause to be furnished to the Chief Executive Officer (CEO) or designee, such information as may be requested relative to the progress, execution, and cost of individual Task Orders. The Consultant will maintain, or cause to be maintained, records showing actual time devoted and costs incurred. The Consultant will maintain, or cause to be maintained, its books, records, documents, and other evidence, and adopt, or cause to be adopted, accounting procedures and practices sufficient to reflect properly all costs of whatever nature, claimed to have been incurred and anticipated to be incurred for or in connection with the Project for six (6) years after termination of this Agreement. This system of accounting will be in accordance with generally accepted accounting principles and practices, consistently applied throughout and in accordance with instructions from the City.

**1.7** In the event of the failure by the Consultant to provide records when requested, then and in that event, the Consultant will pay to the City reasonable damages the City may sustain by reason thereof.

**1.8** No provision in the Agreement granting the City a right of access to records is intended to impair, limit or affect any right of access to such records, which the City would have had, in the absence of such provision.

**2. Scope, Fee Estimate, Work Schedule**

**2.1** The Consultant, working jointly with DEN's assigned Project Manager, will develop a scope of work, fee estimate, and work schedule (Cumulatively referred to as Scope of Work). Task Order scopes of work shall include a general narrative over what the Task Order work entails and what the deliverables are. Fee estimates shall include a detailed break out of intended staff needed to complete the work and will include hourly estimates as well as position classifications and rates. Work schedules shall include all of the activities that the Consultant must perform to complete the Consultant's Task Order Scope of Work. It shall also identify activities or actions that must be performed by the City and third parties, which would affect the Consultant's Work.

**2.2** The City will provide its comments to the Consultant within five (5) working days after the Task Order Scope of Work is submitted. The Consultant shall incorporate the City's comments into the Task Order Scope of Work.

**2.3** ImmeDENtely following the Issuance of task order and throughout the Task Order, the Consultant shall submit to the Project Manager, a rolling three-week, look-ahead schedule, for the following three week's work.

**3. Progress Payment Measurement Alternatives**

**3.1** DEN will propose and the consultant may offer alternatives, one of the following measurement alternatives for each Task Order or the overall Program for calculating progress payments and reporting schedule status to the City. The City shall make the final determination and the Consultant shall use the alternative as approved for the scope of work described in the Task Order.

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control**

**3.1.1 Submittal Status:** Progress payments will be made after the submittals described in a Task Order have been delivered and approved by the City. A portion of the Fee will be allocated to each submittal as defined in the Task Order scope.

**3.1.2 In Progress Status:** Progress payments will be based on the percentage of designs submittals, drawings, specifications, reports or other documents, which have been prepared, submitted, and reviewed or completed. This alternative is acceptable for Task Orders, which have a long duration, and several months may elapse between submittal dates. The Consultant shall prepare a detailed worksheet for each Task Order showing a schedule of proposed billing points and the number of design submittals, drawings, specifications, reports and reviews that establish each point.

**3.1.3 Completion:** Payments will be made for completed Task Orders. This method may be used for Task Orders whose total duration is less than one month, if applicable.

**3.1.4 Level of Effort:** Progress payments will be based on the actual number of man-hours utilized to perform a Task Order. Progress payments (less the appropriate retainage, if applicable) will be based on the actual number of direct labor-hours expended for the period invoiced to perform a Task Order. Progress payments will not be made for amounts above the Not-to-Exceed (NTE) amount (if applicable).

**3.2 Note:** Approvals by the City of submittals do not waive any obligation by the Consultant to provide complete work that has been authorized. Authorized payments on previous invoicing may be set-off on subsequent invoicing in the event work submitted is found to be in non-compliance with the scope of work requirements.

#### **4. Invoices and Progress Payments**

**4.0** Task Orders are issued for projects with a pre-defined maximum value known as the Not-to-Exceed amount. The Not-to-Exceed is not a guaranteed amount to the Consultant. It is the maximum amount allowed to be paid out for the Task Order, plus or minus any pre-authorized changes. The Project Manager will determine when the Task Order deliverables have been met.

**4.1** The City will provide the Consultant with the format required to process the payment through Textura may be applicable. The Consultant shall provide to the City a completed invoice format for review and approval no later than fourteen (14) days after the Issuance of task order. This format will identify the measurement alternatives, which will be used to measure progress for an individual task.

**1.2** The Project Manager and the Consultant shall agree on the day of the month the Consultant's invoices shall be submitted. By the day of the month agreed to for submitting invoices, the Consultant shall invoice the City for its achieved progress on each task during the previous 30 day period. The worksheet(s) which the Consultant used to calculate progress for the Task Order must be submitted with the copy of the invoice. (The Project Manager must provide written approval of the format for these worksheets before they may be used.

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control**

One (1) electronic copy of both the invoice and the Consultant's worksheet(s) shall be submitted each month to the DEN Business Management Services Contract Administrator via email [ContractAdminInvoices@flydenver.com](mailto:ContractAdminInvoices@flydenver.com). If Textura® is to be utilized please see Section 4.11.

**4.3** The Consultant shall submit with each invoice signed Partial Releases from each sub-consultant which states the amount of payment(s) received and/or amount(s) invoiced but unpaid for services performed through the prior billing period. If Textura® is to be utilized please see Section 4.11.

**4.4** The employee labor data (company name, employee name, hourly rate, and number of hours) on each invoice shall be submitted in Unifier.

**4.5** Payment for invoices received after the day of the month agreed to for submitting invoices may be delayed. Accordingly, timely submission of invoices is required.

**4.6** *If applicable*, five percent (5%) of the total amount of each invoice may be withheld per contract or the City's General Airport Bond Ordinance as it may apply, from each progress payment regardless of the measurement alternative selected in section 3 above. The amount withheld (retainage) shall be paid to the Consultant after the Consultant's completion and approval of all submittals required by the Task Order, submittals of all lien releases, and submittal of a final close out invoice. Within six (6) months of the Substantial Completion of a Task Order, the Consultant will forfeit all retainage if Consultant fails to complete all submittals required by the Task Order.

**4.7** The Project Manager will review all invoices and, in the event, the Project Manager disagrees with the invoiced progress, he will notify the Consultant. The Consultant and Project Manager will meet within fifteen (15) days of the receipt of the invoice to discuss the reasons for the disagreement and whether a portion of the payment for the task should be deferred. The Manager or his/her designee shall have the authority in his/her sole and absolute discretion to withhold portions of any progress payment request if he/she determines that the progress claimed for any task in the invoice has not been achieved.

**4.8** In accordance with requirements set forth in this Agreement, the Consultant must have provided the City with the following documentation before any payments will be made to the Consultant:

- A current Certificate of Insurance providing the levels of protection required per Prime Agreement
- Signed Sub-consultant Agreement(s) on: Initial Sub-consultants and as new Sub-consultants are acquired.
- Final Organizational Chart (Updated with new Sub-consultants as they are acquired)
- Authorization Forms ([Attachment B](#)) for any salaried Professional Personnel Assignment who are not already approved in this Agreement.
- Name and Title for Authorized Signatures. The table shall also include the type(s) of documents which can be signed, any dollar threshold limitations, and a facsimile of the employee's signature.



**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control****4.9 Monthly Invoice Checklist - Professional Services Agreements ([Attachment A](#)):**

The Monthly Invoice Checklist must be submitted to the project manager with each invoice. Failure to submit the Monthly Invoice Checklist and all requirements of Exhibit B will be cause for rejection of the invoice until such time that all requirements are fulfilled.

**4.10 Final Close Out Invoice:** By submitting a final close out invoice, Consultant agrees that in consideration of the prior and final payments made and all payments made for authorized changes, the Consultant agrees to release and forever discharge the Owner from any and all obligations, liens, claims, security interests, encumbrances and/or liabilities arising by virtue of the contract and authorized changes between the parties, either verbal or in writing. Consultant agrees that this release is in full settlement of any and all claims, causes of action, and liability of any nature whatsoever which Consultant, any of its sub-consultants, suppliers, or the employees of each of them may now have or may assert in the future against the City of Denver, its elected and appointed officials, and its officers, employees and agents arising out of or associated with the design of the above-referenced project. It is understood and agreed that this release extends to all claims of every nature and kind whatsoever, known or unknown, suspected or unsuspected.

**4.11 *If applicable*, Textura®:** The consultant recognizes and agrees that it may be required to use the Textura® Construction Payment Management System (CPM System) for this contract. Proposers are urged, when preparing a proposal, to contact the Textura® Corporation at 866-TEXTURA (866-839-8872) for pricing schedule and fees, as all fees associated with the CPM System are to be paid by the consultant and sub-consultant for billings for work performed.

**5. Monthly Progress Report Development**

**5.1 Invoice Report:** The Consultant shall submit to the Project Manager an electronic submittal of the Monthly Progress Report with its invoice. This Report shall contain the following sections:

- a) Executive Summary
- b) Work Schedule
- c) Cost Status
- d) Cash Flow Requirements
- e) Subcontract and Minority/Women/Small/Disadvantaged Business Enterprise (M/W/S/DBE) Goals and Status
- f) Status of Task Order
- g) Drawing/Document Schedule and Status
- h) Task/Project Schedule and Manpower Status
- i) Task/Project Activities Planned for Next Month
- j) Monthly Task/Project Activity and Accomplishments
- k) Identification and Analysis, of any Scheduling, Coordination, or Other Problem Areas.
- l) Change Order Log – Approved and Pending

**5.2** The exact format and detail level required for The Monthly Progress Report will be established jointly by the Project Manager and the Consultant within seven (7) days after Issuance of task order based on a proposed format prepared by the Consultant. The Report shall describe Task Order(s) completion status in terms of original plan, actual, a forecast

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control** of time to complete the Task Order(s) and any expected Task Order budget or schedule completion variances. The "Status of Task Order" report shall be formatted separately for each Task Order Scope of Work.

**5.3** The Consultant shall be available, when requested, to meet with City representatives to discuss the Monthly Progress Report.

## **6. Schedule Changes and Increase in Project Amount**

**6.1** Any requests for schedule changes or increases in a Task Order amount shall be submitted to the City in writing and shall include an explanation and justification for the proposed schedule change or increases.

## **7. Allowable General and Administrative Overhead (Indirect Costs)**

**7.0** All Allowable General and Administrative Overhead expenses are incorporated in the Labor Rates and Classifications Exhibit; Overhead / Multiplier Factor Calculation – Professional Services Agreements, and paid through the application of the Overhead Multiplier Factor against core staff wage reimbursements.

**7.1** Indirect costs are the general administrative overhead costs that benefit more than one project; costs that cannot be directly identified with a single specific task objective of the project. Department of Aviation policy is to allow overhead costs in the following manner as part of the negotiated multiplier as calculated in the Labor Rates and Classifications Exhibit:

**7.1.1 Office Provisions:** Utilities, communications systems, rent, depreciation allowances, furniture, fixed equipment, etc.

**7.1.2 Supplies, Equipment & Vehicles:** For office, drafting, engineering copying, postage, freight, surveying vehicles, computer drafting and graphics, computers, software, etc.

**7.1.3 Maintenance and Repair:** On office equipment, survey & testing equipment, buildings, vehicles, etc.

**7.1.4 Insurance:** Professional liability, errors and omissions liability, vehicles, facilities, etc.

**7.1.5 Taxes:** Personal property, state & local taxes, real estate, (state and federal income taxes excluded), etc.

**7.1.6 Marketing Fees & Publications:** Licenses, dues, subscriptions, trade shows, staff support, etc.

**7.1.7 Admin & Clerical Office Staff:** All administrative, clerical & management support staff not directly involved in the specific project or task.

**7.1.8 Other Indirect Costs:** Training, technical seminars, library, financial & legal cost, employment fees & recruiting costs, etc.

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control**

**7.2 Non-Allowable Overhead:** Including but not limited to: Advertising, bad debts, bank fees, bonuses, contingencies, distribution of profits, donations, gifts, & charitable contributions, employee stock ownership plans, entertainment & social functions, state and federal income taxes, fines & penalties, goodwill, interest expense, lobbying costs, overtime premium, unallowable relocation costs pursuant to Federal Acquisition Regulations (FAR 31.205-35), etc.. If an expense is not explicitly included in this Agreement as an allowable expense, it is not an allowable expense.

**8. Allowable (Non-Salary) Expenses**

**8.0 Expenses Reimbursed at Cost:** All Allowable (Non-Salary) expenses are reimbursed at cost.

**8.1 Receipts Required:** All direct expenses submitted for reimbursement must be evidenced by a submitted receipt.

**8.2 Expenses Greater Than \$500:** All direct expenses greater than \$500 must be pre-approved by the Project Manager or his/her designee ([Attachment C](#)). Any asset purchased by DEN must be surrendered to DEN at the end of the project or task. The consultant shall be charged replacement value for any asset purchased by DEN that is not accounted for at the end of the project or task.

**8.3 Mileage Outside Of the Denver Metro Area:** Mileage reimbursement will be provided only for travel outside the Denver Metropolitan area that has been pre-approved by the Manager or his/her designee ([Attachment D](#)). The reimbursement will be at the current rate established for reimbursement by the United States Internal Revenue Service ([www.irs.gov](http://www.irs.gov)). Denver metropolitan area mileage for employees assigned to the project and employees not assigned to the project will not be reimbursed. Tolls will not be reimbursed.

**8.4 Travel and Airfare:** All travel must be pre-approved on the DEN Advance Travel Authorization Form (Attachment E) and signed by the Project Manager or his/her designee. Travel shall be done using the most reasonable cost and means under the circumstances. Travel expenses are reasonable, appropriate, and necessary travel and business related expenses(s) that are incurred while carrying out official City business as it relates to the consultant's contractual obligations and scope of work. The determination of reasonableness of cost and of the means of travel shall be at the discretion of the Project Manager or his/her designee, who shall consider economic factors and circumstances, including but not limited to number of days of travel, advance notice, possibility of trip cancellation, distance of travel, travel alternatives, and hours of arrival or departure.

Airfare will be reimbursed for Economy/Coach class travel only, including luggage check-in fees. Convenience expenses such as seat upgrades, in-flight meals and refreshments, entertainment, etc. will not be reimbursed.

**8.5 Rental Car:** At cost for standard class or smaller and when required for out-of-town personnel or out-of-town travel.

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control**

**8.6 Lodging Rate / Night:** A maximum of the Lodging per diem for the Denver metropolitan area as published by the U.S. General Services Administration website [www.gsa.gov](http://www.gsa.gov) plus taxes per night, unless approved in advance in writing by the Project Manager or his/her designee.

**8.7 Meals:** The City shall reimburse the Traveler for reasonable meals expenses at the meal and incidental expense (M&IE) rates established through federal guidelines and IRS regulations, or at actual cost. The Agency/Department will decide on the reimbursement method. Only one method of reimbursement may be used per trip. The per diem rate includes breakfast, lunch, and dinner. Reimbursements will be made per individual Traveler conducting official City business as it relates to the consultant's contractual obligations and scope of work.

Alcohol will not be reimbursed. Meal reimbursements are not allowed for consultant employees located in the Denver Metropolitan Area.

**8.8 Special:** Including printing, equipment, express courier, delivery, rentals, etc., that is not already included in O.H. and is for the specific project or a task related to the Agreement. All expenditures in section 8.8 submitted for reimbursement must be pre-approved by the Project Manager or his/her designee.

**8.9 Specialty Consulting:** Including geotechnical testing, surveying, legal, real estate, computer, financial, renderings, animations, modeling, etc. must be pre-approved by the Project Manager or his/her designee.

**8.10 Project Field Office & Equipment:** Including utilities, rent, communications systems, furniture, fixed equipment, etc.

**8.11 Project Field Supplies, Equipment & Vehicles:** For field office, engineering copying, postage, freight, field vehicles, computer drafting and graphics, computers, all software / license fees, etc.

**8.12 Non-Allowable Expenses:** Including but not limited to: valet parking, alcohol, tolls, laundry and dry cleaning, flight upgrades, flight change fees (unless flight changes resulted from action(s) caused by Denver International Airport), entertainment & social functions (corporate and civic), overtime premium, fines & penalties, items included in section 7.2 above, etc. If an expense is not explicitly included in this Agreement as an allowable expense, it is not an allowable expense.

**8.13 Preparation of Proposals:** Costs for proposal preparation and negotiation will not be reimbursable.

## **9. Summary of Contract Task Order Control**

### **9.1 Prior to Commencement of Work – Submittals Required**

**9.1.1** Signed Sub-consultant Agreement(s) with an Exhibit listing the sub-consultant's core staff rates and calculated Labor Rates and Classifications.

**9.1.2** Authorization Forms for salaried Personnel Assigned for the Prime Contractor and all Sub-consultants ([Attachment B](#)).

**9.1.4** List of the names and titles of Authorized Signers, which document(s) they can sign, and a facsimile of the employee's signature.

**9.1.5** Work Schedule and Task List formatting

### **9.2 Within 3 Days after Issuance of Task Order – Submittals Required**

**9.2.1** The Consultant shall meet with the Project Manager for a Pre-Work Meeting.

**9.2.2** Current Certificate of Insurance reflecting the Mandatory Coverage in Exhibit D.

**9.2.3** Final Organizational Chart of the Prime Contractor and all Sub-consultants.

### **9.3 Within 7 Days after Issuance of Task Order**

**9.3.1** Correspondence Control Methods and Progress Report Format

**9.3.2** Invoice and Progress Payment Format

**9.3.3** The Consultant shall submit their proposed Monthly Progress Report Format

### **9.4 Bi-Weekly Submittal**

**9.4.1** The Consultant shall submit a detailed two-week look-ahead schedule of activities for the Task Order.

### **9.5 Monthly Submittals**

**9.5.1** The Consultant shall submit the Monthly Progress Report.

**9.5.2** The Consultant shall submit invoicing by the day of the month referenced in section 4.2.

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control**

**9.6 Within 7 Days after Request for Proposal for Task Order – Submittals Required**

**9.6.1** Scope Definitions and Detailed Cost Estimate per task and per sub-consultant, List of Submittals or Deliverables, Drawing and Specification.

**9.6.2** Work Schedule per task and overall Task Order schedule showing appropriate milestones.

**9.6.3** The Consultant shall submit the *Exhibit Task Order Fee Proposal* template detailing the costs of the project.

**10. Information Management Format and Electronic-Mail Protocols**

**10.1** Within 3 days following the Issuance of task order, the Consultant shall meet with the City to review the City’s proposed method of correspondence, email, & submittal communication control. Within 7 days following this review, the Consultant shall institute its control procedures for the Program.

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control****Attachment A – Monthly Invoice Checklist****Professional Services Agreements****Date:** \_\_\_\_\_**Invoice Number:** \_\_\_\_\_ **Contract Number:** \_\_\_\_\_**Contract Name:** \_\_\_\_\_**Consultant:** \_\_\_\_\_

(Name)

\_\_\_\_\_  
(Address)**Monthly Progress Payment Invoice and Exhibit B Progress Requirements Checklist:** (Place a check in the box to indicate that the item was supplied in accordance with Exhibit B requirements)

- Three Week Schedules for period covered by this invoice (Section 2.4)
- Originals of Sub-Consultant Partial Releases (Section 4.3)
- Invoice Report (Section 5.1)
  - Executive Summary
  - Work Schedule(s)
  - Cost Status
  - Cash Flow Requirements
  - Manpower and Task Completion Variance Analysis, Achieved vs. Planned, and any Planned or Proposed Schedule or Budget Revisions or other Remedial Actions
  - Subcontract and Minority/Women/Small/Disadvantaged Business Enterprise (M/W/S/DBE) Goals and Status
  - Status of Task Order
  - Drawing / Document Schedule and Status
  - Task/Project Schedule and Manpower Status
  - Task/Project Activities Planned for Next Month
  - Monthly Task/Project Activity and Accomplishments
  - Identification and Analysis, of any Scheduling, Coordination, or Other problem Areas
  - Change Order Log – Approved and Pending

The preceding and noted reports, schedules and logs have been submitted at the appropriate intervals and in accordance with the requirements of Exhibit B. The Consultant acknowledges that failure to submit the required items will result in the rejection of the Monthly Progress Payment Invoice until such time that all requirements are fulfilled.

\_\_\_\_\_  
Signature\_\_\_\_\_  
Date\_\_\_\_\_  
Type Name and Title

**Attachment B – Expense Greater than \$500 Approval Form**

Date: \_\_\_\_\_

Contract Name: \_\_\_\_\_

Contract Number: \_\_\_\_\_ Task Number(s) (if applicable): \_\_\_\_\_

Company Name: \_\_\_\_\_

Employee Name: \_\_\_\_\_

Estimated Total Cost: \$ \_\_\_\_\_

Reason for Expense: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To be completed by DEN personnel:

Capital Assets:  YES  NO

(Including but not limited to: computer equipment, copiers, furniture, vehicles, etc.)

**Note: Any assets purchased by DEN must be returned to DEN at the end of the project. The Consultant will be charged replacement value for any assets purchased by DEN that are unaccounted for at the end of the project.**

The above described expense has been approved.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type Name and Title

cc: Finance if asset purchase



**Attachment C – Mileage Reimbursement Form**

**Date:** \_\_\_\_\_

**Contract Name:** \_\_\_\_\_

**Contract Number:** \_\_\_\_\_ **Task Number(s):** \_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Employee Name:** \_\_\_\_\_

**Travel From:** \_\_\_\_\_

**Travel To:** \_\_\_\_\_

**Estimated Total Miles:** \_\_\_\_\_

**Estimated Total Cost: \$** \_\_\_\_\_

**Reason for Travel:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Travel for the above named individual and purpose is approved.

---

Signature

Date

---

Type Name and Title

Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control  
Attachment D – Advance Travel Authorization Form

**Contract No.:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Traveler's Name:** \_\_\_\_\_ **Authorization No.:** \_\_\_\_\_

**Traveler's Employer:** \_\_\_\_\_

**Destination:** \_\_\_\_\_

**Duration: From** \_\_\_\_\_ **To** \_\_\_\_\_

**Purpose of Trip:** \_\_\_\_\_

\_\_\_\_\_

**Approximate Travel Costs: \$** \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_  
Project Manager Date

**Approved by:** \_\_\_\_\_  
Section Manager Date

cc: BMS Contract Administrator

**Exhibit B – Scheduling, Progress Reporting, Invoicing and Correspondence Control**

**Attachment E – Technologies Work Order Form**

**CONTRACTOR WORK ORDER EXAMPLE**

1. Vendor Name: \_\_\_\_\_ Contract No: 201 \_\_\_\_\_
2. Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_
3. Contracted Employee’s Name: \_\_\_\_\_
4. Bill Rate: \$XX.XX per hour (estimated at 40 hours per week)
5. Title: \_\_\_\_\_
6. \*Overtime Rate: \$XX.XX per hour (for hours worked in excess of 40 hours per week)  
\*Client approval required for overtime.
7. Training Expenses: DEN will not pay for training or for hours spent in training for consultants or contractors.
8. Expense Reimbursements: DEN will not reimburse for any expenses incurred by consultant.
9. Service Sites: Unless otherwise specified in writing, the services to be performed by Consultant shall be performed at the Client location specified above.
10. Time Tracking: All work performed by consultant shall be tracked accurately and consultant shall submit a weekly timecard to Client for approval.
11. Written Approval: All overtime (hours worked in excess of 40 hours per week) and work performed off-site shall be approved by Client in writing prior to the work being performed.
12. Early Termination: Client reserves the right to terminate this Work Order at any time and for any reason prior to the end date specified in this work order.
13. Mandatory Furlough: In the case where the City & County of Denver mandates furlough days for its personnel, Consultant agrees to match the required furlough days for its employees and not bill DEN for the furlough days taken by the contractor.
14. Responsibilities: Manage Information Security’s service ticket queue. Perform service ticket resolution or escalation in a timely fashion while meeting SLA response time.
15. Performance Criteria Consultant’s performance will be evaluated by Client on at least a bi-annual basis.

If any conflict should arise between this work order and the Contract, the contract overrides this work order and its content.

**Vendor Representative: Denver International Airport**

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

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Title: Budget and Procurement Supervisor, Technologies

**End of Exhibit B**

EXHIBIT C -- RATES

**Cost Proposal Worksheet**

<b>On-Site</b>	
<b>Job Title:</b>	<b>Hourly Rate:</b>
Program Manager / Sr. Project Manager	\$190.00
Technology Practice Leader	\$180.00
Sr. Airport Planner/Consultant	\$180.00
Sr. Systems Specialist	\$185.00
Project Manager	\$180.00
Communications System Designer	\$160.00
Network Security Engineer	\$205.00
Network Engineer	\$175.00
Telecommunications Administrator	\$150.00
Senior Contract Administrator	\$165.00
Contract Administrator	\$145.00
CADD Technician	\$70.00
Administrative Assistant	\$50.00

<b>Off-Site</b>	
<b>Job Title:</b>	<b>Hourly Rate:</b>
Program Manager / Sr. Project Manager	\$190.00
Sr. Airport Planner/Consultant	\$180.00
QA / QC Manager	\$175.00
Project Manager	\$180.00
Sr. Electrical Engineer	\$165.00
Sr. Communications Designer	\$175.00
Sr. Systems Specialist	\$185.00
Communications System Designer	\$160.00
Systems Specialist	\$175.00
Sr. Architect	\$160.00
Architectural Designer	\$145.00
Sr. Mechanical Engineer	\$140.00
Mechanical Designer	\$125.00
Electrical Engineer	\$135.00
Cost Estimator	\$115.00
Scheduler	\$95.00
CAD / FTP Manager	\$85.00
CAD Technician	\$70.00
CAD Drafter	\$70.00
Project Assistant	\$60.00
Word Processing	\$50.00

**CITY AND COUNTY OF DENVER  
CERTIFICATE OF INSURANCE FOR DEPARTMENT OF AVIATION**

 Original COI Advice of Renewal Change

Party to Whom this Certificate is Issued:

Name and Address of Insured:

CITY AND COUNTY OF DENVER  
Attn: Risk Management, Suite 8810  
Manager of Aviation  
Denver International Airport  
8500 Peña Boulevard, Room 8810  
Denver CO 80249

**CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: 201839581 - On Call Electronic Communication System Support Services**

**I. MANDATORY COVERAGE****Colorado Workers' Compensation and Employer Liability Coverage****Coverage:** COLORADO Workers' Compensation**Minimum Limits of Liability (In Thousands)**

WC Limits: \$100, \$500, \$100

And Employer's Liability Limits:

**Any Policy issued under this section must contain, include or provide for the following:**

1. All States Coverage or Colorado listed as a covered state for the Workers' Compensation
2. Waiver of Subrogation and Rights of Recovery against the City and County of Denver (the "City"), its officers, officials and employees.

**Commercial General Liability Coverage****Coverage:** Commercial General Liability (coverage at least as broad as that provided by ISO form CG0001 or equivalent)**Minimum Limits of Liability (In Thousands):**

Each Occurrence:	\$1,000
General Aggregate Limit:	\$2,000
Products-Completed Operations Aggregate Limit:	\$2,000
Personal & Advertising Injury:	\$1,000
Fire Damage Legal - Any one fire:	\$1,000

**Any Policy issued under this section must contain, include or provide for the following:**

1. City, its officers, officials and employees as additional insureds, per ISO form CG2010 and CG 2037 or equivalents.
2. Coverage for defense costs of additional insureds outside the limits of insurance, per CG0001.
3. Liability assumed under an Insured Contract (Contractual Liability).
4. The full limits of coverage must be dedicated to apply to this project/location, per ISO form CG2503 or equivalent.
5. Waiver of Subrogation and Rights of Recovery, per ISO form CG2404 or equivalent.
6. Separation of Insureds Provision required
7. General Aggregate Limit Applies Per: Policy \_\_\_Project \_\_\_Location\_\_\_, if applicable

**Business Automobile Liability Coverage****Coverage:** Business Automobile Liability (coverage at least as broad as ISO form CA0001)**Minimum Limits of Liability (In Thousands):** Combined Single Limit \$1,000

**Any Policy issued under this section must contain, include or provide for the following:**

1. Symbol 1, coverage for any auto. If no autos are owned, Symbols 8 & 9, (Hired and Non-owned) auto liability.
2. If this contract involves the transport of hazardous cargo such as fuel, solvents or other hazardous materials may occur, then Broadened Pollution Endorsement, per ISO form CA 9948 or equivalent and MCS 90 are required.

## **II. ADDITIONAL COVERAGE**

### **Umbrella Liability**

**Coverage:**

**Umbrella Liability, Non Restricted Area**

**Minimum Limits of Liability (In Thousands)**

Umbrella Liability Restricted Area  
Each Occurrence and aggregate

\$9,000

**Any Policy issued under this section must contain, include or provide for the following:**

1. City, its officers, officials and employees as additional insureds.
2. Coverage in excess of, and at least as broad as, the primary policies in sections WC-1, CGL-1, and BAL-1.
3. **If operations include unescorted airside access at DIA, then a \$9 million Umbrella Limit is required.**

### **Professional Liability only as applicable Information Technology Contracts**

**Coverage: Professional Liability including Cyber Liability for Errors and Omissions**

(If contract involves software development, computer consulting, website design/programming, multi-media designers, integrated computer system design, data management, and other computer service providers.)

**Minimum Limits of Liability (In Thousands)**

Per Claim

\$1,000

**Any Policy issued under this section must contain, include or provide for the following:**

1. The insurance shall provide coverage for the following risks:
  - a. Liability arising from theft, dissemination and / or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form
  - b. Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party, to gain access to your services including denial of service, unless caused by a mechanical or electrical failure
  - c. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.
2. Policies written on a claims-made basis must remain in full force and effect in accordance with CRS 13-80-104. The Insured warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under the Contract is completed.
3. Any cancellation notice required herein may be provided by either certified or regular mail.
4. The policy shall be endorsed to include the City, its elected officials, officers and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of the Insured
5. Coverage must include advertising injury, personal injury (including invasion of privacy) and intellectual property offenses related to internet.

### III. ADDITIONAL CONDITIONS

It is understood and agreed, for the benefit of the City, that the following additional conditions shall apply to all coverage specified herein

- All coverage provided herein shall be primary and any insurance maintained by the City shall be considered excess.
- With the exception of professional liability and auto liability, a Waiver of Subrogation and Rights of Recovery against the City, its officers, officials and employees is required for each coverage period.
- The City shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein, and the insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
- Advice of renewal is required.
- All insurance companies issuing policies hereunder must carry at least an A -VI rating from A.M. Best Company or obtain a written waiver of this requirement from the City's Risk Administrator.
- Compliance with coverage requirement by equivalent herein must be approved in writing by the City's Risk Administrator prior to contract execution.
- No changes, modifications or interlineations on this Certificate of Insurance shall be allowed without the review and approval of the Risk Administrator prior to contract execution.

### NOTICE OF CANCELLATION

It is understood and agreed that should any Policy issued hereunder be cancelled or non-renewed before the expiration date thereof, or sustain a material change in coverage adverse to the City, the issuing company or its authorized Agent shall give notice to the Department of Aviation in accordance with policy provisions.