

## **AGREEMENT**

**THIS AGREEMENT** is entered into as of the date indicated on the signature page below, by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation ("City"), Party of the First Part, and **HSS INC.**, a corporation authorized to do business in Colorado, ("Contractor").

### **WITNESSETH:**

**WHEREAS**, the City owns and operates Denver International Airport ("DIA" or the "Airport"); and

**WHEREAS**, the City desires to seek a services provider to provide Total Queue Management services at DIA; and

**WHEREAS**, the City has solicited and received proposals for such services, and has chosen the proposal submitted by the Contractor; and

**WHEREAS**, the Contractor is ready, willing, and able to provide and perform the services called for hereunder subject to the following conditions;

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

### **SECTION 1 - DEFINITIONS**

As used in this Contract, unless the context requires otherwise:

#### **1.01 AIRPORT; DIA**

“Airport” or “DIA” means Denver International Airport.

#### **1.02 CONTRACT ADMINISTRATOR**

The City's Manager of Aviation, his or her designee or successor in function (hereinafter referred to as the "Manager of Aviation" or the "Manager") authorizes all work performed under this Agreement. The Manager hereby delegates his or her authority over the work described herein to the Deputy Manager of Aviation for Operations, hereinafter referred to as "Deputy Manager," as the Manager's authorized representative for the purpose of administering, coordinating and approving work performed by the Contractor under this Agreement. The Contractor shall submit its reports, memoranda, correspondence and submittals to the Contract Administrator. The Manager and the Deputy Manager may rescind or amend any such designation of representatives or delegation of authority and the Deputy Manager may from time to time designate a different individual to act as Contract Administrator, upon notice to the Contractor.

### **1.03 CONTRACTOR EMPLOYEE; CONTRACTOR PERSONNEL**

“Contractor employee” or “Contractor personnel” shall include employees and personnel of the Contractor and subcontractors, if any.

### **1.04 MANAGER**

“Manager” means the Manager of Aviation.

## **SECTION 2 – SCOPE OF WORK**

### **2.01 SCOPE OF WORK**

The Contractor shall be responsible for providing the services more fully described in the Scope of Work, which is attached hereto as **Exhibit A**. The Contractor shall furnish all necessary labor, tools, equipment, and supplies to perform the required services, including escort for its subcontractors if needed, except for the equipment and facilities which are specified in this Contract as being the responsibility of the City.

### **2.02 MANNER OF WORK**

A. Scope of Work: The Contractor will furnish all of the technical, administrative, professional and consulting services and other labor; all supplies and materials, equipment, printing, vehicles, local travel, office space and facilities, testing and analyses, calculations, and any other facilities or resources required to perform and complete the work all in accordance with the attached **Exhibit A**, hereinafter referred to in this Agreement as the Contractor's “Scope of Work.” Contractor shall not be authorized to proceed with work described herein and the City shall not be obligated to fund any work performed by the Contractor, until the City has provided written notification to the Contractor that the work is to be performed.

B. Professional Responsibility: The Contractor shall faithfully perform the Scope of Work required under this Agreement in accordance with standards of care, skill, expertise, training, diligence and judgment customarily exercised by highly competent professionals who perform work of a similar nature to the work described in this Agreement.

C. Diligence: The Contractor acknowledges that time is of the essence in the performance of its services under this agreement and that the City of Denver may suffer damages if the Project is delayed as a result of the Contractor’s failure to provide its services in a timely and diligent manner. Contractor shall perform the work described herein in a timely manner and as directed by the Deputy Manager or his or her authorized representatives.

D. Neither the Contractor nor any of its employees shall perform any work at the Airport other than that which is defined herein, except as permitted in writing by the Director of Airport Maintenance. When such other work is approved, it is expressly understood that the needs of the Department of Aviation are to have precedence over any such work.

E. This is a non-exclusive Contract. In the City's best interests, the City reserves the right to purchase the same materials and services through other procurements. The City also reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the vendor.

F. Lease Agreement: A lease of space to the Contractor to conduct its operations under this agreement shall be separately negotiated.

## **SECTION 3 - TERM**

### **3.01 TERM**

The term of this Contract shall commence at 12:01 a.m. M.S.T. on January 29, 2013, and shall terminate at 12:00 a.m. M.S.T. on January 28, 2016, unless earlier terminated in accordance with the Contract Documents. This contract shall be for a term of three (3) years. It is also a specific provision of this Contract that the Manager in her discretion (or her designee) may renew and continue the Contract under the same terms and conditions as the original contract for up to two (2) additional years in increments of one or two years. Though multiple extensions may be granted, in no event shall the total extensions total more than two years. In addition, the term of this Contract may be extended in the Manager's discretion, by written notice from the City to the Contractor, 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 Contract Term shall increase the Maximum Contract Amount stated herein; such amount may be changed only by a duly executed written amendment to this Contract.

## **SECTION 4 – COMPENSATION AND PAYMENT**

### **4.01 COMPENSATION**

The City hereby agrees to pay the Contractor, and the Contractor agrees to accept as its sole compensation for its complete costs incurred and services rendered under this Agreement, an amount negotiated for individual tasks included in the project's scope of work as set forth in **Exhibit A – Scope of Work**.

### **4.02 SCHEDULING, PROGRESS REPORTS, AND INVOICES**

A. Payments shall be made to the Contractor based upon bi-weekly invoices and receipts submitted by the Contractor, which invoices have been approved by the City, and subject to the maximum contract liability.

B. Invoices shall include adequate documentation to support the accuracy of each invoice. Failure to include adequate documentation with the invoice will result in the denial of all or part of the billing. The City reserves the right to reject and not pay any invoice or part thereof where the Manager determines that the amount invoiced to date exceeds the amount which should be paid based upon its determination of the work which has been performed. Disputes concerning

payments under the provisions of this contract shall be resolved by administrative hearing pursuant to the procedures of Section 5-17, Denver Revised Municipal Code.

C. Payments will be made to the Contractor in accordance with the City's Prompt Payment ordinance. The Contractor agrees that interest and late fees shall be payable by the City hereunder only to the extent authorized and provided for in the City's Prompt Payment Ordinance.

D. Under no circumstances will the Contractor receive payment for work which was not authorized by the Manager or his/her authorized representative.

#### **4.03 MAXIMUM LIABILITY**

A. Any other provision in this Agreement notwithstanding, in no event shall the City be liable for payment under this Agreement for any amount in excess of **Four Million Nine Hundred Seventy Two Thousand Nine Hundred Thirteen Dollars and No Cents (\$4,972,913.00)**. All payments under this Agreement shall be paid solely and exclusively from the "City and County of Denver, Airport System Operation and Maintenance Fund" or from the "City and County of Denver Airport System Capital Improvement and Replacement Fund". The City is under no obligation to make any future apportionments or allocations to said fund.

B. The City reserves the right to direct the Contractor to perform only limited portions of the work described in Exhibit A and the Contractor agrees that it shall not continue work in excess of approved and encumbered amounts without a written Notice from the City stating the funding limit and term. If the Contractor chooses to proceed with work prior to receiving such a written Notice, then the Contractor shall do so at its own risk without any liability for payment by the City. The City's written Notice must be signed by the City's Deputy Manager of Aviation, Operations and by the City's Deputy Manager of Aviation, Finance otherwise it is invalid and the Contractor is without authority to proceed. Payments hereunder will be made subject to the multi-year conditions stated above.

C. The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years, and the Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City. The City is not under any obligation to make any future encumbrances or appropriations for this contract nor is the City under any obligation to amend this Agreement to increase the Maximum Contract Liability above.

#### **4.04 REVENUE FROM BINS ADVERTISING**

The Contractor shall also compensate the City **Eighty Thousand Dollars (\$80,000.00)** per year (the "BINs Revenue") from the Contractor's contract with the Bin advertising company. It is anticipated that the BINs revenue shall be received on an equal monthly payment basis.

#### **4.05 TIME OF PAYMENT / PROMPT PAYMENT**

Terms shall be subject to the City's Prompt Payment Ordinance D.R.M.C. 20-107 *et-seq.* subject to the Maximum Contract Liability set forth herein. Payments shall be based upon bi-weekly invoices and receipts submitted by Contractor in accordance with the provision of this Agreement and that have been audited and approved by the City. The Contractor agrees that interest and late fees shall be payable by the City hereunder only to the extent authorized and provided for in the City's Prompt Payment Ordinance. For any subcontractor engaged by Contractor under this Agreement, the Contractor is subject to Section 20-112, D.R.M.C., requiring the Contractor 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 by Contractor are subject to a late payment penalty as provided for in Section 20-112, D.R.M.C.

#### **4.06 ELIGIBLE BUS PASS PROGRAM**

- A. The Contractor agrees to provide its employees located at Denver International Airport under this Agreement ("Eligible Employees"), with bus passes. Bus passes shall be purchased in accordance with an approved transit plan provided by the Regional Transportation District (RTD).
- B. The Contractor shall be responsible for administering its transit plan with RTD and agrees to comply with all terms and conditions of the transit plan.
- C. For every month that the Contractor provides bus passes for its Eligible Employees, the City shall reimburse the Contractor 75% of the bus pass cost for each Eligible Employee.
- D. The Contractor agrees to provide the City with the following information:
  - 1. A copy of the contract relating to the transit plan between the Contractor and RTD;
  - 2. A monthly report of all Eligible Employees who have and have not accepted the bus pass; and
  - 3. A detailed invoice with the cost of the transit plan clearly identifiable.
- E. The Contractor agrees that any duly authorized representative of the City shall have the right to audit the books, documents, papers and records of the Contractor, involving the transit plan within the record retention period generally established in the Contract.
- F. The City agrees to reimburse the cost of the bus passes in accordance with subsection (C) above.
- G. Any Eligible Employee who accepts a Bus Pass under this program will not also receive an employee parking permit in the DIA Employee Parking Lot. The City will provide monthly hang tags to the Contractor to issue to those employees who need to drive to the Airport for occasional use.

## **SECTION 5 – CONTRACTOR’S PERFORMANCE**

### **5.01 CONTRACTOR PERSONNEL – GENERAL REQUIREMENTS**

A. The Contractor shall at all times provide properly trained and competent personnel in the number and classifications necessary to perform its services in an efficient manner and in accordance with the Contract. The Contractor shall be responsible for the conduct of all the Contractor’s personnel at all times.

B. The Contractor shall remove from the Airport work site any Contractor employee on, or invited by it onto, the Airport, when the Manager of Aviation notifies the Contractor in writing that such person: (a) is, in the sole opinion of the Manager of Aviation or his/her designee, incompetent, unfit or disorderly; or (b) has used profane or abusive language or behavior toward any person at the Airport. Such person shall not be reassigned to Airport work by the Contractor, except with the express written consent of the Manager of Aviation or his/her designee.

### **5.02 EMPLOYEE DRIVER LICENSES AND RECORDS**

A. Contractor employees driving either City or Contractor provided vehicles under this Contract are required to maintain an excellent driving record. Drivers with a driving record unacceptable to the City's insurance underwriter will be assigned by the Contractor to a non-driving job if available.

B. All Contractor personnel assigned to the Airport will carry Airport Identification Badges at all times during their employment at the Airport.

### **5.03 THE CONTRACTOR’S SUPERVISOR**

A. The Contractor shall provide an on-site Supervisor, trained, qualified, and acceptable to the Airport’s Contract Administrator, exclusively for this Contract. The Supervisor shall have full authority to act for the Contractor at all times to carry out the provisions of this Contract.

### **5.04 AIRPORT SECURITY**

A. It is a material requirement of this Contract that the Contractor 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 Contractor 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 Contractor 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.

The Contractor's employees are responsible for having the proper identification at all times. The Contractor and any subcontractors are responsible for obtaining DIA badges for site personnel at no expense to the City. In addition, if badges are lost or misplaced the Contractor or subcontractor is responsible for replacement. Proper ID is to be worn on the outside garment or in compliance with DIA Badge requirements. Failure to do so may result in the Contractor being prohibited from performing the required services.

B. The Contractor, promptly upon notice of award of this Contract, shall meet with the Airport's Assistant Security Manager to establish badging and vehicle permit requirements for Contractor's operations under this Contract. The Contractor 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 Contractor 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 Contractor shall take immediate steps to comply with security modifications which occur as a result of the changed status. The Contractor may at any time obtain current information from the Airport Security Office regarding the Airport's security status in relation to the Contractor's operations at the Airport.

D. The Contractor 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 Contractor fails to do so, the Contractor 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 Contractor under this Contract.

## **5.05 SAFETY**

A. The Contractor shall operate at all times under this Contract in compliance with the Occupational Safety and Health Act.

B. For all operations requiring the placement and movement of the Contractor's equipment, Contractor shall observe and exercise and compel its employees to observe and exercise all necessary caution and discretion so as to avoid injury to persons, damage to property of any and all kinds, and annoyance to or undue interference with the movement of the public and City personnel.

## **5.06 LAWS, REGULATIONS, TAXES AND PERMITS**

A. The Contractor, at all times, shall observe and comply with all applicable federal, state, county, city, Airport, and other laws, codes, ordinances, rules and regulations in any

manner affecting the conduct of the work, including without limitation the Williams-Steiger Occupational Safety and Health Act of 1970 (Public Law 91-596).

B. The Contractor shall procure all federal, state, local, and airport permits, licenses, or approvals necessary to perform the Scope of Work, and shall comply with all requirements of the same. Contractor shall pay all required charges, taxes, and fees and give all notices necessary and incidental to the due and lawful prosecution of the work. All costs thereof shall be deemed to be included in the prices proposed for the work.

C. Without limiting the foregoing, the Contractor shall establish appropriate procedures and controls so that services under this Contract will not be performed by using any alien or non-U.S. citizen. Failure to satisfactorily comply with this condition may cause the City to terminate this Contract.

D. Contractor agrees that he, or any subcontractor under him, will pay all sales and use taxes levied by the City and County of Denver on any tangible personal property built into the work. These materials are exempt from Colorado State Taxes per CRS 1973 39-26-114 Rev. It shall be the responsibility of the Contractor to obtain a Certification of Exemption from the State of Colorado Department of Revenue prior to the purchase of any materials to be built into the work. A copy of the certificate shall be furnished the City prior to final payment.

## **5.07 EXISTING UTILITIES AND STRUCTURES**

The Contractor shall adequately protect the work, Airport property, adjacent property and the public. In the event of damage to facilities and/or disruption in services at the facilities, as a result of the Contractor's operations or lack thereof when required, the Contractor shall take immediate steps to notify the Contract Administrator and subsequently repair or restore all services to the satisfactory approval of the Contract Administrator. The Contractor shall also provide temporary services to maintain uninterrupted use of the facilities.

All costs involved in making repairs and restoring disrupted service shall be borne by the Contractor, and the Contractor shall be fully responsible for any and all claims resulting from the damage.

The Contract Administrator, at her/his option, may elect to perform such repairs and deduct the cost of such repairs, replacements and outside services from the monthly charges by the Contractor.

## **SECTION 6 – INDEMNITY, INSURANCE, RECORDS, BONDS**



## **6.01 INSURANCE**

**A.** The Contractor 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 C**, which is incorporated into this Agreement by this reference. The Contractor shall submit to the City fully completed and executed ACORD form which specifies the issuing company or companies, policy numbers and policy periods for each required form of coverage.

**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 C**. All subcontractors' certificates and endorsements must be received and approved by the Contractor 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 Peña 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 Contractor 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 Contractor under the terms of this Agreement, including the Indemnification provisions herein. The Contractor 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.

## **6.02 DEFENSE AND INDEMNIFICATION**

**A.** Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful

misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Contractor 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. Contractor'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. Contractor'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. Contractor 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 Contractor under the terms of this indemnification obligation. The Contractor 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.

### **6.03 INSPECTION OF RECORDS:**

A. During the term of this Agreement, upon request of the Contract Administrator or the City Auditor, the Contractor shall make available all payroll records, training records, books of account, and other relevant records pertinent to the Agreement for the purposes of inspection and audit of such records at the Contractor's office. The Contractor agrees that the City's duly authorized representatives shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to audit, examine and copy any directly pertinent books, documents, papers and records of the Contractor related to work performed under this Agreement.

B. The Contractor agrees that it shall maintain a true and complete cost accounting system acceptable to the Federal Aviation Administration and the City and County of Denver, in accordance with generally accepted accounting principles which are acceptable to the City Auditor. Such system shall be kept in a manner as to allow Contractor's operations hereunder to be distinguishable from all other operations of Contractor. 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 Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees that such records will contain

information concerning the personnel, hours and specific tasks performed, along with the federal project number, if applicable. The Contractor further agrees to maintain all books, records and reports required under this Agreement for a period of not less than three years after final payment is made and all pending matters are closed, and that the Auditor of the City or any of his duly authorized representatives 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 Contractor involving transactions related to this agreement. Subject to the prior written approval of the City and County of Denver, upon termination of this Agreement, the Contractor may surrender to the City all records and documents relating to this Agreement.

In the event such records are not made available in the Denver metropolitan area, Contractor shall pay to the City in full, in advance, travel and related expenses of a City representative to travel to any location outside the Denver area for such examination. Following the travel, expenses shall be reconciled, and any difference between the advance payment and the actual expenses shall be paid by or refunded to Contractor as appropriate. Such documents shall be available to the City representative within fourteen (14) calendar days of the date of the written request.

The parties agree that any delay in furnishing such records to the City will cause damages to the City which the parties agree are liquidated in the amount of Three Hundred and Fifty Dollars (\$350.00) per day for each day the records are unavailable beyond the date established as the City's notice.

#### **6.04 PAYMENT AND PERFORMANCE BOND**

A. A Performance, Payment, and Guarantee Bond satisfactory to the City and County of Denver on the form required by the City, in an amount not less than **Forty-Five Thousand Dollars (\$45,000)** is required of the Contractor to guarantee that it will perform the work in strict accordance with Agreement Documents and shall pay all debts incurred under this Agreement. The Surety named in the Bond must be authorized to do business in the State of Colorado.

B. This Bond must be either renewed annually by the Surety named in the Bond or replaced with an identical Bond covering the subsequent year of the Agreement issued by another Surety which has been approved in advance by the Manager of Aviation. If the Manager of Aviation does not receive written notice from the Surety in the manner provided in the Bond at least one-hundred and twenty (120) days before it expires or does not receive a substitute Bond in the form required by the City from an approved Surety at least one-hundred and twenty days (120) before the Bond expires, then the Contractor shall be in default of this Agreement and the Manager of Aviation may immediately terminate this Agreement by giving the Contractor written notice of such default. If the City elects to extend the Agreement for additional periods at the same prices, terms and conditions pursuant to Section 3.2 of this Agreement, the Contractor shall obtain and submit either an extension of the existing Performance, Payment and Guarantee Bond or the an identical Bond from another Surety that is acceptable to the City.

C. Under no circumstances shall the City be liable to the Contractor for any costs incurred or payments made by the Contractor to obtain an extension of an existing Bond or a new Bond.

D. The only acceptable alternative to a Performance, Payment, and Guarantee Bond is an Irrevocable Unconditional Letter of Credit from a local financial institution acceptable to the City and County of Denver in the amount of Forty-Five Thousand Dollars (\$45,000). Renewal of said Irrevocable Unconditional Letter of Credit during the term and any one-year extensions of the Agreement shall be as set out above with respect to the Performance, Payment, and Guarantee Bond.

E. The City's forms of Performance, Payment and Guarantee Bond or Irrevocable Unconditional Letter of Credit must be used. Those forms are attached to this Agreement and incorporated herein as Exhibit F. Attorneys-in-Fact who sign Performance, Payment, and Guarantee Bonds must file with such Bonds a certified copy of their Power-of-Attorney to sign such Bonds that is certified to include the date of the Bond.

## **SECTION 7 - SUBCONTRACTING**

### **7.01 SUBCONTRACTING ALLOWED**

The Contractor may sublet portions of the Work. No subcontractor shall in turn subcontract any portion of its work; there shall only be one tier of subcontracting.

### **7.02 OBLIGATIONS OF CONTRACTOR**

The Contractor shall be responsible for any acts or omissions of its employees, agents, suppliers, materialmen and subcontractors. The Contractor shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract. In addition, all work performed for the Contractor by a subcontractor shall be pursuant to an agreement between the Contractor and the subcontractor which shall contain provisions that:

A. Preserve and protect the rights of the City and its funding agencies under the Contract with respect to the work to be performed so that the subcontracting thereof will not prejudice those rights; and

B. Require that the Subcontractor be bound to the Contractor by the terms of the Contract, that its work be performed in accordance with the requirements of the Contract, and with respect to the work it performs, that it assume toward the Contractor all the obligations and responsibilities which the Contractor assumes toward the City.

### **7.03 APPROVAL OF SUBCONTRACTORS**

All subcontractors which the Contractor expects to perform Work under this Contract must be approved in writing by the Manager of Aviation before the subcontractor begins work. The Manager may refuse to approve a subcontractor for reasons which include, but are not limited to, the following:

- A. Default on a contract within the last five (5) years.
- B. Default on a contract which required that a surety complete the contract under payment or performance bonds issued by the surety.
- C. Debarment within the last five (5) years by a public entity or any organization which has formal debarment proceedings.
- D. Significant or repeated violations of Federal Safety Regulations (OSHA).
- E. Failure to have the specific qualifications listed in the Contract for the work that the subcontractor will perform.
- F. Failure to have the required City or Colorado licenses to perform the work described in the subcontract.
- G. Failure to pay workers the proper wage and benefits or to pay suppliers or subcontractors with reasonable promptness within the last five (5) years.
- H. The Subcontractor or any of its officers or employees are convicted, plead nolo contendere, enter into a formal agreement in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, obstruction of justice, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with the Subcontractor's business.

Before the Manager approves any such subcontractor, the Contractor shall submit to the Manager a statement signed by an officer or principal of the Contractor certifying that the Contractor has investigated the qualifications and background of its proposed subcontractors and identifying the existence of any of the problems listed above or certifying that to the best of his or her knowledge the problems listed do not exist.

#### **7.04 NO CONTRACTUAL RELATIONSHIP**

The City does not intend that this Section 7, or any other provision of this Contract, be interpreted as creating any contractual relationship between the City and any subcontractor. The City does not intend that its approval of a subcontractor will create in that subcontractor a right to any subcontract. The City's approval of a subcontractor does not relieve the Contractor of its responsibilities to the City for the work to be performed by the subcontractor.

### **SECTION 8 – RESERVED**

## **SECTION 9 - CONTRACT ADMINISTRATION**

### **9.01 AUTHORITY OF THE CONTRACT ADMINISTRATOR**

A. The day to day administration of this Contract is vested in the Airport's Contract Administrator. The Contract Administrator or other City representative is to have free access to the Contractor's work areas at the Airport. The Contract Administrator or other City representative shall have the right to inspect facilities and equipment to ensure compliance with the Contract. The Contract Administrator will decide any and all questions which may arise as to the quality and acceptability of supplies and equipment furnished and work performed, and as to the manner of performance and rate of progress of the work.

B. The Contract Administrator may make changes in the specifications of work performed by the Contractor, if such changes do not alter the general nature of the work being performed. Notice to the Contractor of such changes will be made orally if the duration of such changes is less than one week; otherwise, notice will be given in writing.

### **9.02 CONTRACTOR'S UNSATISFACTORY PERFORMANCE**

If, in the opinion of the Manager, the Contractor's performance under this Contract becomes unsatisfactory, the City shall notify the Contractor in writing, specifying the instances of unsatisfactory performance. The Contractor must correct any specific instances of unsatisfactory performance within a reasonable time, or by such time as may be specified by the Contract Administrator. In the event the unsatisfactory performance is not corrected within such time, the City shall have the immediate right at the Contractor's sole expense to complete the work to its satisfaction and the City shall deduct the cost to cover same from any balances due or to become due the Contractor.

### **9.03 DISPUTE RESOLUTION**

Disputes arising out of this Agreement shall be resolved by administrative hearing before the Manager of Aviation following the procedures outlined in Denver Revised Municipal Code Section 5-17. It is further agreed that no cause of action shall be brought against the City until there has been full compliance with the terms of this Section.

### **9.04 CONTRACT; ORDER OF PRECEDENCE**

This Contract consists of Sections 1 through 11 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Exhibit A  
Exhibit C  
Exhibit F

Scope of Work  
City and County of Denver Insurance Certificate  
Performance Bond

Appendix No. 1  
Appendix No. 3

Standard Federal Assurances  
Nondiscrimination in Airport Employment  
Opportunities

In the event of an irreconcilable conflict between (i) a provision of Sections 1 through 11 and any of the listed attachments or (ii) 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:

Appendices No. 1 and 3  
Sections 1 through 11 hereof  
Exhibit A  
Exhibit C  
Exhibit F

## **SECTION 10 – DEFAULT, REMEDIES, TERMINATION**

### **10.01 TERMINATION FOR CONVENIENCE OF THE CITY**

The Manager, upon giving a minimum of Ninety (90) days written notice may terminate this contract, in whole or in part, for the convenience of the City. If this Contract is so terminated, the City shall be liable only for payment in accordance with the payment provisions of this Contract for services rendered prior to the effective date of termination.

### **10.02 DEFAULT**

The following are events of default under this Contract:

A. In the opinion of the Manager, the Contractor fails to perform adequately the services required in the contract.

B. In the opinion of the Manager the Contractor fails to perform the required work within the time stipulated in the contract.

C. In the opinion of the Manager, the Contractor provides material that does not meet the requirements of the Contractual Agreement

D. In the opinion of the Manager, the Contractor attempts to impose on the City and County of Denver materials, products, service or workmanship which is of an unacceptable quality.

E. In the opinion of the Manager, the Contractor fails to make progress in the performance of the requirements of the contract and/or gives the City and County of Denver a

positive indication that the Contractor will not or cannot perform to the requirements of the Contractual Agreement.

F. The Contractor is in default under any other contract, purchase order or agreement with the City.

G. The Contractor becomes insolvent, or takes the benefit of any present or future insolvency or bankruptcy statute, or makes a general assignment for the benefit of creditors, or consents to the appointment of a receiver, trustee or liquidator of any or substantially all of its property.

H. The Contractor transfers its interest under this Contract, without the prior written approval of the City, by reason of death, operation of law, assignment, sublease or otherwise, to any other person, entity or corporation.

I. The Contractor gives its permission to any person to use for any illegal purpose any portion of the Airport made available to Contractor for its use under this Agreement.

J. The Contractor fails to comply with any of the provisions of this Contract concerning Airport security.

K. The Contractor or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, obstruction of justice, undue influence, theft, racketeering, extortion, or any offense of a similar nature, in connection with Contractor's business.

L. The Contractor fails to keep, perform and observe any other promise, covenant or agreement set forth in this Contract, and such failure continues for a period of more than 30 days after delivery by the City of a written notice from the Manager of such breach or default, except where a shorter period is specified herein, or where fulfillment of its obligation requires activity over a period of time and Contractor within 10 days of notice commences in good faith to perform whatever may be required to correct its failure to perform and continues such performance without interruption except for causes beyond its control.

### **10.03 REMEDIES**

A. The Contractor will have 24 hours from the time it is informed, whether verbally or in writing, that its performance is unsatisfactory to correct any specific instances of unsatisfactory performance. In the event the unsatisfactory performance is not corrected within 24 hours, the City shall have the immediate right to complete the work to its satisfaction and shall deduct the cost to cover from any balances due or to become due the vendor. Repeated incidences of unsatisfactory performance will result in cancellation of the agreement for default.

B. If Contractor commits an Event of Default, as described in Section 10.02, the City may exercise any one or more of the following remedies:



1. The City may elect to allow this Contract to continue in full force and effect and to enforce all of City's rights and remedies hereunder.

2. The City may cancel and terminate this Contract upon giving 10 days written notice to Contractor of its intention to terminate; provided, however, that if the Contractor has committed an Event of Default as defined in Subsections 10.02(H), (I), (J) or (K), termination may be effective either immediately upon notice, or within a stated period after notice, as determined by the Manager in her discretion.

3. Perform any test or analysis on materials as to whether they conform in all respects to the specifications of the Contractual Agreement. If the results indicate non-compliance with the specifications, any actual expense of testing will be borne by the vendor.

4. The City may obtain necessary services in the open market, or otherwise perform or obtain performance of the services covered by this Contract, at the Expense of the Contractor. The City may recover any actual excess costs by: (1) deduction from an unpaid balance; (2) collection against the Contractor's performance bond; or (3) any combination of the two foregoing methods. Nothing herein shall prevent the City from using any other method of collection available to it.

#### **10.04 REMEDIES CUMULATIVE**

The remedies provided in this Contract shall be cumulative and shall in no way affect any other remedy available to the City under law or in equity.

### **SECTION 11- GENERAL CONDITIONS**

#### **11.01 BOND ORDINANCES; GOVERNING LAW; VENUE; SERVICE OF PROCESS**

This Contract shall be deemed to have been made in, and shall be construed in accordance with the laws of, the State of Colorado and the Charter and Ordinances of the City and County of Denver. 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. Venue for any action hereunder shall be in the City and County of Denver, State of Colorado. The Contractor agrees that any and all notices, pleadings and process may be made by serving two copies of the same upon the Colorado Secretary of State, State Capitol, Denver, Colorado, and by mailing by return mail an additional copy of the same to the Contractor at the address shown herein; that said service shall be considered as valid personal service, and judgment may be taken if, within the time prescribed by Colorado law or Rules of Civil Procedure, appearance, pleading or answer is not made.

#### **11.02 NO DISCRIMINATION IN EMPLOYMENT**

In connection with the performance of work under this contract, the Contractor agrees not to refuse to hire, nor to discharge, promote or demote, nor to discriminate in matters of compensation 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 Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.

### **11.03 ASSIGNMENT OF CONTRACT**

The Contractor may not assign or otherwise transfer any of its rights or obligations under this Contract without the prior written approval of the Manager. If the Contractor attempts to assign or transfer any of its rights or obligations hereunder without obtaining the prior written consent of the Manager, the Manager may elect to terminate this Contract. The Manager has the sole and absolute discretion to grant or deny any transfer or assignment request.

### **11.04 NONEXCLUSIVE CONTRACT**

This is a non-exclusive Contractual Agreement. In the City's best interests, the City reserves the right to purchase the same materials and services through other procurements.

### **11.05 NO THIRD PARTY BENEFICIARIES**

This Contract does not, and shall not be deemed or construed to confer upon or grant to any third party or parties any right to claim damages or to bring any suit, action or other proceeding against either the City or the Contractor because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein contained. Any person other than the City or the Contractor receiving any benefit hereunder shall be deemed to be an incidental beneficiary only.

### **11.06 RISK OF LOSS**

Contractor agrees to bear all risk of loss, injury, or destruction of goods and materials ordered as a result of this Proposal which occur prior to delivery to the City and County of Denver; and such loss, injury or destruction shall not release Contractor from any obligation hereunder.

### **11.07 PATENTS AND TRADEMARKS**

A. The Contractor covenants that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans to be used by it in its operations under or in any way connected with this Contract. The Contractor agrees to save and hold the City, its officers, employees, agents and representatives free and harmless of and from any loss, liability, expenses, cost, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Contractor under or in any way connected with this Contract.

B. The Contractor agrees that it will not engage in or allow its employees, subcontractors or agents to engage in, any unauthorized use or infringement of any trademark or copyright. The Contractor agrees to save and hold the City free and harmless of and from any loss, liability, expenses, cost, suit or claim for damages in connection with any infringement by the Contractor or its officers, employees, subcontractors, agents or representatives, of any trademarks or copyrights, arising out of the operations of the Contractor under or in any way connected with this Contract.

#### **11.08 MASTER PLAN**

No liability shall attach to the City, its officers, agents and employees by reason of any efforts or action toward implementation of any present or future master plan for the development or expansion of DIA and the Contractor waives any right to claim damages or other consideration arising therefrom.

#### **11.09 STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR; CITY DOES NOT FURNISH UNEMPLOYMENT OR WORKERS COMPENSATION COVERAGE**

A. It is understood and agreed by and between the parties that the status of the Contractor 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 it is not intended nor shall it be construed that the Contractor, its employees, or its subcontractors are employees or officers of the City under Chapter 18 of the Revised Municipal Code or for any purpose whatsoever.

B. Without limiting the foregoing, the parties hereby specifically acknowledge that the Contractor is not entitled to unemployment insurance benefits unless the unemployment compensation coverage is provided by the Contractor or some other entity besides the City, that the Contractor is not entitled to worker's compensation benefits from the City, and that the Contractor is obligated to pay federal and state income tax on moneys earned pursuant to this Agreement. The parties further acknowledge that the provisions of this paragraph are consistent with the Contractor's insurance obligations which are set forth in this Agreement.

#### **11.10 NO WAIVER OF RIGHTS**

No assent, expressed or implied, to any breach of any one or more of the covenants, provisions and agreements of this Contract shall be deemed or taken to be by the City a waiver of any succeeding or other breach.

#### **11.11 NOTICES**

Notices concerning termination of this Contract, notices of default, notices of violations of the terms or conditions of this Contract, and other notices of similar importance shall be made:



(2) It shall not enter into a contract with a subcontractor or subconsultant that fails to certify to the Contractor 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 Contractor 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.

#### **11.14 USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS**

The Contractor and Contractor'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 Contractor and Contractor's agents from City facilities or participating in City operations.

#### **11.15 CITY SMOKING POLICY**

Contractor 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. Contractor 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.

### **11.16 SOLICITING**

No soliciting for any purpose is allowed on Airport premises by the Contractor's employees. The Contractor shall inform its employees of this Agreement requirement prior to the time each such employee shall begin work for the Contractor at Denver International Airport.

### **11.17 GRATUITIES**

Neither the Contractor nor its employees, officers and agents shall solicit or accept gratuities for any reason whatsoever from any employee of the City or the General Public.

### **11.18 ADVERTISING AND PUBLIC DISCLOSURES**

The Contractor 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 Manager, which will not be unreasonably withheld. Nothing herein, however, shall preclude the transmittal of any information to officials of the City, including without limitation, the Mayor, the Manager of Aviation, member or members of City Council, or the Auditor.

### **11.19 GREENPRINT DENVER POLICY AND GUIDANCE:**

Contractor shall, when applicable and practicable, follow standards and recommendations of the United States Environmental Protection Agency EPP program, the Green Seal organization, and standards and practices specified by the U.S. Green Building Council, including the Leadership in Energy and Environmental Design (LEED) program. Contractor shall fully implement all appropriate LEED-EB principals to minimize negative economic, environmental, and public health impacts of its operations and maintenance. Services must meet any directly applicable LEED-EB standards, and otherwise help the City realize the goals of Greenprint Denver.

### **11.20 ESTIMATED QUANTITIES**

The approximate service needs outlined herein are estimated as closely as possible. However, the City neither states nor implies any guarantee that actual service utilization will equal the estimate. It is the intent of this Contract that the City will be supplied with more or less of the services outlined herein according to actual needs.

### **11.21 TIME IS OF THE ESSENCE**

In the performance of this contract by the Contractor, time is of the essence.

### **11.22 CONFLICT OF INTEREST**

The Contractor represents and warrants that it is under no obligation or restriction, nor will the Contractor assume any obligation, which would in any way interfere with or be inconsistent with the services to be furnished by the Contractor under this Contract.

### **11.23 SEVERABILITY**

If any of the provisions of this Contract are held to be unenforceable or invalid by any court of competent jurisdiction, the remaining provisions herein which are severable shall not be affected.

### **11.24 COLORADO OPEN RECORDS ACT**

The Contractor acknowledges that the City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes §24-72-201 et seq., and all documents prepared or provided by Contractor under this Agreement may be subject to the provisions of the Colorado Open Records Act. 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 Contractor to the City shall be considered confidential by the City only to the extent provided in the Open Records Act and the Contractor 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. The Contractor agrees that it will fully cooperate with the City in the event of a request for disclosure of such documents or a lawsuit arising under such act for the disclosure of any documents or information, which the Contractor asserts, is confidential and exempt from disclosure.

In the event of a request to the City for disclosure of such information, time and circumstances permitting, the City will make a good faith effort to advise the Contractor of such request in order to give the Contractor the opportunity to object to the disclosure of any of material the Contractor may consider confidential, proprietary or otherwise exempt from disclosure. In the event of the filing of a lawsuit to compel disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Contractor agrees it will either intervene in such lawsuit to protect materials the Contractor does not wish disclosed, or waive any claim of privilege or confidentiality. If the Contractor chooses to intervene in such a lawsuit and oppose disclosure of any materials, the Contractor agrees to defend, indemnify, and save and hold harmless the City, its officers, agents, and employees, from any claim, damages, expense, loss or costs arising out of the Contractor's intervention including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

### **11.25 ENTIRE CONTRACT**

The parties acknowledge and agree that the provisions contained herein constitute the entire agreement between the parties as to the subject matter hereof, and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications to this Contract, except those which are expressly reserved herein to the Manager, shall be valid unless they are contained in an instrument which is executed by all the parties with the same formality as this Contract.

**11.26 COUNTERPARTS OF THIS AGREEMENT:**

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

**11.27 ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:**

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

**11.28 CITY EXECUTION OF CONTRACT**

This Contract is expressly subject to, and shall not become effective or binding on the City, until it is fully executed by all signatories of the City and County of Denver.

**END OF PAGE**

**SIGNATURE PAGE FOLLOWS**



**Contract Control Number:** PLANE-201208834-00

**Contractor Name:** HSS Inc.

By: Wayne V Schell

Name: WAYNE V Schell  
(please print)

Title: CEO  
(please print)

**ATTEST: [if required]**

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

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

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



**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 \_\_\_\_\_



# EXHIBIT A

## Denver International Airport (DIA) Total Queue Management (TQM) Program Scope of Work

The City of Denver ("City") at Denver International Airport (DIA) currently has three (3) separate security checkpoints in the Jeppesen Terminal. These checkpoints are used by passengers, employees, and airline crew members to gain access to the secured Concourses and Gates. The Transportation Security Administration (TSA) performs the security screening at these checkpoints.

The Service Provider (SP) shall be responsible for Total Queue Management (TQM) services at Denver International Airport (DIA) as described herein. The services provided by the SP under this Agreement include but are not limited to, those services described in the SP's Proposal. The SP shall furnish all necessary labor, tools, equipment and supplies to perform the required services except for the equipment and facilities to be provided by the City of Denver (City) under the provisions of this Agreement.

### CENTRAL FUNCTIONS OF THE PROGRAM

The Total Queue Management Program (TQM) at Denver International Airport (DIA) has the following central functions:

1. Manage the queue systems, customer service, and way finding services at the Security Checkpoints operated by the TSA
2. Minimize security wait times and maximize throughput at the security checkpoints through active diverting of passengers to the checkpoint(s) with the lowest wait times
3. Provide the highest level of security and deliver excellent customer service to all customers using Denver International Airport
4. Manage the Security Checkpoint Bins program, supplying bins and related materials to each of the Security Checkpoints in accordance with TSA requirements

The Service Provider ("SP") for the TQM program will be required to manage all aspects of each of these functions.

### DENVER INTERNATIONAL AIRPORT GOALS

DIA has specific goals established for this program. All proposals should explain how the proposed operation meets these goals.

1. Minimize security wait times and maximize throughput at the Security Checkpoints

2. Maintain the highest level of customer service and security for all customers at DIA
3. Manage all aspects of the queue systems while providing innovative solutions to meet the changing needs of security
4. Utilize capacity equally at all Security Checkpoints

DIA believes that meeting these goals will provide the highest level of customer service to the traveling public. The SP for the TQM program will be required to achieve these goals. The SP should provide specific examples of experience as related to the Operational and Technical Specifications of the TQM Program as described in Section 1.

The City of Denver at Denver International Airport manages the TQM Program through a designated Program Manager of Terminal Operations.

In the event that Denver International Airport adds additional screening checkpoints the SP will be responsible for staffing all of the above aspects of the additional checkpoint(s). In the event of additional checkpoints or other contractually requested positions, pricing identified in Section 3 will be used for reimbursement.

# SECTION 1

## TOTAL QUEUE MANAGEMENT (TQM) PROGRAM

### 1. BACKGROUND

Denver International Airport (DIA) currently has three (3) separate security checkpoints in the Jeppesen Terminal. These checkpoints are used by passengers, employees, and airline crew members to gain access to the secured Concourses and Gates. The Transportation Security Administration (TSA) performs the security screening at these checkpoints.

### 2. OPERATIONAL AND TECHNICAL SPECIFICATIONS

The Service Provider (SP) shall perform all obligations set forth in this Scope of Work in a timely manner and shall be responsible for ensuring that the Total Queue Management Program meets all of the requirements set forth below. All methodologies proposed by the SP must be fully explained and developed and include the aspects listed below. The SP should also provide specific examples of experience as related to the following Operational and Technical Specifications of the TQM Program:

- 2.1 Queue and Line Management:** The SP will be expected to manage the queues and lines extending beyond the queues at each Security Checkpoint. Each queue system has a minimum of two entry points for various types of customers accessing the Security Checkpoints. The checkpoints currently include general and restricted access entry points. The SP will be responsible for ensuring passengers possess the proper travel documents prior to entering the various entry points.
- 2.2 Queue Monitoring:** The SP should also continuously monitor the queue systems to identify potential issues with the TQM program. This will include monitoring the length of the queue lines and changing the flow of the queues as necessary. This includes monitoring wait times, available lanes, and passenger flow. The SP will work with the DIA Program Manager to recommend and implement innovative and continuous improvement solutions to increase performance under this contract.
- 2.3 Diverting:** The SP will be expected to maintain equal utilization of all Security Checkpoints by diverting passengers to the Security Checkpoints with the lowest wait time while providing the highest level of customer service.
- 2.4 Data Measurement:** The SP will be required to provide periodic reports as requested by the DIA Program Manager on the various metrics of the TQM program which may include, but are not limited to, security checkpoint wait times,

diverting performance, lanes usage, and passenger counts. The agreement proposed by the City will include incentives surrounding specific metrics that will be included in these reports.

- 2.5 Security Directives:** Security requirements are often changed by the TSA. The SP will need to work with the City to make recommendations and implement new procedures to the queue management program that are in alignment with new security protocols.
- 2.6 Stanchion Maintenance:** Stanchions owned by DIA will be used in the queue systems, and parts for the stanchions will be provided by DIA. The SP will be required to maintain the stanchions. This includes identifying maintenance issues and performing repairs in a timely manner. The SP must also manage the stanchion flow in the queue system throughout each operational period to maximize efficiency and customer service.
- 2.7 Customer and Way-Finding Services:** The SP must provide the highest level of customer service and way-finding services to all customers at DIA. The customer service program offered by the provider must demonstrate that employees will represent DIA well in the eyes of the traveling public. Customer feedback mechanisms must be in place.
- 2.8 Uniforms:** The SP must provide their uniform design and characteristics for approval with their proposal submittal. Denver International Airport reserves the right to approve all uniform designs prior to implementation of the TQM Program.
- 2.9 Security Bin Program:** The SP must provide Security Bins and related materials at each of the checkpoints as required by the TSA.

The current minimum requirements (subject to change) for the Security Bin Program are as follows:

<b>Materials (Provided by SP)</b>	<b>Per Lane Equipment Minimum</b>	<b>Total Equipment</b>
Bins	65	1950
Bin Carts	4	120
Tables (Divesting)	3	90

Security Bins and related materials shall be in clean and overall satisfactory condition that meets or exceeds the needs and expectations of the travelling public. Security Bins and related materials that are deemed unsatisfactory by the DIA Program Manager must be replaced within 48 hours. Security Bins shall be replaced on a regular basis, but no less than once every 120 days. All Security Bin advertising must be approved by the DIA Program Manager.

- 2.10 Other Duties:** In times of abnormal or emergency operations, as declared by Airport or Terminal Operations at Denver International Airport, the SP will work

with the Program Manager to provide and/or re-assign personnel as priorities demand.

## SECTION 2

### METRICS FOR TQM PROGRAM

The following checkpoint metrics shall be captured and collected by the SP and provided to the City. Metrics data and reports shall be collected on the half hour and on the hour for each checkpoint while the checkpoint is operational. Metrics will have documentation of the individual who observed/collected the data. A sample of the type of metrics to be collected are outlined in the following table and will be provided to the City on a daily basis and at other times as requested. The City requires metrics to be provided in mean average times and all categories shall include the associated range indicating highs and lows. The following is a sample of the TQM metrics

#### SAMPLE

TOTAL QUEUE MANAGEMENT CHECKPOINT OPERATIONS	
EVALUATION TOPIC	METRIC
Wait time	Length of wait time from end of queue line to the Travel Document Checker (TDC) (in minutes).
	Data must be available by checkpoint location, and documented as Registered Traveler (RT), Pre-Check, regular or premium line, date, time of documentation and day of the week. (All checkpoints will be documented)
TSA screening lanes open	Data must be available by checkpoint, date, time of documentation and day of the week. (All checkpoints will be documented)
Travel Document Check personnel on duty	Data must be available by checkpoint, date, time of documentation and day of the week. (All checkpoints will be documented)
RT/TQM/Pre-Check personnel on duty	Data must be available by checkpoint, date, time of documentation and day of the week. (All checkpoints will be documented)

Metrics will be collected as agreed upon by the SP Manager and the DIA Program Manager, on a quarterly basis.



# **SECTION 3**

## **CONTRACT PRICING**

### **1. CONTRACT DURATION**

The contract length will be three years with two additional one year options. Year One (1) will commence immediately upon final contract execution. Years Two (2) through three (3) will each commence on the anniversary date of contract execution. Years four (4) and (5) are City options.

### **2. UNIT PRICING**

The SP shall provide an hourly rate for TQM staff. Pricing shall apply to additional personnel or hours as requested by the Program Manager. The SP shall determine the hourly rate to include all holiday, overtime, vacation and medical benefits. Therefore, any increases in attendant costs must be anticipated for the full term of this contract and included in the pricing offered herein. Billable hourly personnel costs will increase by 3% per year and are scheduled below.

2.1 TQM Agent (billable price \$21.27 per person per hour first year; \$21.91 per person per hour second year; \$22.57 per person per hour third year; \$23.23 per person per hour fourth year; \$23.93 per person per hour fifth year)\

2.2 Lead TQM Agent (billable price \$21.27 per person per hour first year; \$21.91 per person per hour second year; \$22.57 per person per hour third year; \$23.23 per person per hour fourth year; \$23.93 per person per hour fifth year)

### **3. STAFF SCHEDULING**

As of January 29, 2013, the hours of operation are from 4:30am to 9:00pm, daily, 7 days per week. Staffing calls for 4 TQM Agents, 1 Lead TQM Agent, and 1 TQM Breaker position (6 total) per AM and PM shift, at a total of 96 hours per day.

Changes to security protocols, technology, and other operational factors may alter the minimum staffing needs of the TQM Program at any time. The DIA Program Manager may amend the minimum staffing schedule, including hours of service and personnel, at his/her sole discretion.

## **4. BILLING FOR SPECIAL PROJECTS**

Billing for Special Projects (not related to the TQM Program) will be sent to the Program Manager for approval and forwarded to the responsible party (the City, DIA management, Construction Proposer, Event Staff, etc.) for payment. Billing rates for special projects will be agreed upon prior to the commencement of the special projects.

4.1 Net Unit Cost for Supplemental TQM regular staff for Special Projects – twenty-four (24) hours notice: Net Unit Price per hour \$33.00

4.2 Net Unit Cost for Supplemental TQM regular staff for Special Projects – seventy-two (72) hours notice: Net Unit Price per hour \$30.25

4.3 Net Unit Cost for Supplemental TQM regular staff for Special Projects – five (5) working days notice: Net Unit Price per hour \$28.60

Premium rates shall remain in effect throughout the duration of the Special Project or for a maximum of 30 days. After the 30 day period, the rate listed in the TQM Invoicing Rates table shall apply.

## **5. PAID TIME OFF (PTO) PAY**

5.1 Minimum and Accrual Dates

5.1.1. Minimum Paid Time Off: At a minimum, SP's employees hired or assigned to work at the Airport shall accrue forty-eight (48) hours of paid time off during their first year (i.e. 2080 hours of continuous service) at Denver International Airport under this Agreement, fifty-six (56) hours of paid time off during their second year of continuous service at Denver International Airport under this Agreement, sixty-four (64) hours of paid time off during their third year of continuous service, seventy-two (72) hours of paid time off during their fourth year of continuous service, and eighty (80) hours of paid time off during their fifth year of continuous service at Denver International Airport under this Agreement.

5.1.2. Service Provider's Employees Who Began Working at DIA Prior to the Start of this Agreement: will accrue Paid Time Off Vacation hours pay based upon their anniversary of continuous years of service with SP .

# **SECTION 4**

## **OBLIGATIONS OF SERVICE PROVIDER (SP)**

### **1. GENERAL PERSONNEL REQUIREMENTS AND CUSTOMER SERVICE**

Personnel shall be in good physical condition and health, fully capable of performing normal or emergency duties requiring moderate to arduous physical exertion. Such physical condition to be evidenced by a report of physical examination conducted by a practicing physician, if required. Minimum qualifications are as set forth in this Section.

SP personnel shall be strictly impartial with regard to services rendered and shall be polite under all circumstances, delivering exceptional customer service at all times. Exceptional customer service includes, but is not limited to the following: effective listening, creating an inviting customer service environment, being polite and engaging, active listening, satisfying customer expectations, taking ownership of the customer's issue or concern, and thanking the customer. Under no circumstance shall any employee or representative of the SP be loud, rude, boisterous or use profane or abusive language in the presence of any customer or on Airport property.

The public perception of SP personnel must be one of customer service excellence, attentiveness, vigilance, and ready response. To this end, the SP shall specifically direct all personnel employed under this Agreement that they shall not engage in any activity while in uniform, either on duty or off, that would give the public the perception of inappropriate customer service behavior. This would include, but is not limited to: congregating in public view, shoe shines, reading newspapers, loitering, chewing gum, or eating. All personnel must eat lunch, and take breaks, in areas pre-designated by the City's Program Manager.

### **2. LICENSES AND PERSONNEL INFORMATION**

**2.1** The SP shall be responsible for securing all licenses and permits required by the laws of the State of Colorado and the City and County of Denver for personnel performing work under this contract.

**2.2** The SP may be asked to furnish a copy of the below noted documents for each of its employees assigned to service this Agreement to the City's Manager of Aviation or his/her designee within ten (10) business days of commencing duty under this Agreement. Said file shall contain:

1. Employment Application
2. Training Records
3. Government issued Photo ID
4. Colorado Bureau of Investigation background record check

## 5. Outside Employment Verification

- 2.3** Any changes in licensing, certification, etc. which occurs during the course of this Agreement for any employee shall be provided to Denver International Airport within three (3) business days of such change for inclusion in the Denver International Airport file.

## 3. SECURITY REQUIREMENTS

- 3.1** Prior to assignment to Denver International Airport, all personnel must have undergone a fingerprint based Criminal History Records Check and be issued an Airport ID badge.
- 3.2** The background investigation by the SP is to include verification of previous employment or education for the past ten (10) years. Said investigation and Identity Verification shall be documented and shall be included in the personnel file provided to Denver International Airport. The TSA charges a fee for the fingerprint based Criminal History Record Check (CHRC). All SP employees working at Denver International Airport must pass a Criminal History Record Check (CHRC) before obtaining an Airport ID badge. The Identity Verification will be conducted by Denver International Airport, Airport Security. Costs for a Criminal History Record Check and Identity Verification shall not be reimbursable and the SP shall bear the expenses of same.
- 3.3** All personnel provided under this Agreement shall be required to undergo a polygraph examination as deemed necessary by any law enforcement agency during the course of any investigation.

## 4. REJECTION OF UNFIT PERSONNEL

- 4.1** The City and County of Denver, Department of Aviation may reject – without cause – the use of an individual employee if it deems the individual is not fit to carry out the requirements of the position or post to which the SP has assigned said personnel.
- 4.2** The SP shall remove from the Airport work site any SP employee, for non-discriminatory reasons, or, invited by it onto the Airport when the Manager of Aviation or Program Manager notifies the SP verbally or in writing that such person is unacceptable to the City for any lawful reason. Such person shall not be reassigned to Airport work by the SP, except with the expressed written consent of the Manager of Aviation or his/her designee.

## 5. TRAINING

- 5.1** In addition to the formal training for new hires, the SP shall be expected to provide ongoing on-the-job training in response to individual needs and

changing conditions to ensure its personnel are performing in accordance with the terms of this Agreement.

- 5.2** It shall be a specific requirement of this Agreement that all training provided for personnel services Denver International Airport shall be at the SP's expense and the SP shall not request additional remuneration for training provided to its employees.
- 5.3** The SP shall provide the Program Manager with copies of its training plan and all training materials, (e.g. manuals, videos) for approval. The SP will update its training as new equipment and procedures are implemented by TSA and the SP. The SP shall be responsible for all training records. The Program Manager may review the records upon request.

## **6. FIELDS OF INSTRUCTION**

- 6.1** The SP shall be responsible for training each employee in the following fields either prior to, or immediately upon assignment to a post. Training Checklists must be completed for each employee for each position in which they have been trained. The SP is required to submit a training plan, a breakdown of hours for each field of instruction, as requested by the Program Manager.
- 6.2** Prior to assignment at Denver International Airport, the following training must be completed:
  - 6.2.1. Airport Security ID Badge Training
  - 6.2.2. Customer Service Training developed by SP and approved by Program Manager
  - 6.2.3. Terminal Operations Training specific to the individual's job responsibility. This may include, but is not limited to, queue management; TSA procedures and FAA regulations; divesting; diverting; travel document checking; stanchion maintenance and repair, automated external defibrillator use; radio, telephone and electronics device use; and other areas as may be required.
  - 6.2.4. Public relations, including, but not limited to, interactions with the public in compliance with laws prohibiting discrimination on the basis of race, national origin, religion or disability. These laws include the federal Americans with Disabilities Act, the federal Civil Rights Act of 1964, the Colorado Civil Rights Act, and Colorado laws requiring the admission of service animals into public facilities.
  - 6.2.5. Care and handling of aggressive and violent behavior.

## **7. NEW POSITION ASSIGNMENT**

SP employees assigned to new positions shall be oriented and instructed by the Training Officer in areas to be instructed (as outlined in training requirements) before commencing their tour of duty. A minimum of 20 hours of orientation training specific to Denver International Airport and an additional 16 hours instruction specific to the post the employee will be assigned to shall be considered sufficiently comprehensive so that personnel may effectively and efficiently perform the duties prior to their new assignment. The Program Manager shall have the option of determining the assignment of personnel for each post serviced under this Agreement.

## **8. COMMUNICATIONS REQUIREMENTS**

The SP will be required to attend certain meetings as determined by the Program Manager. Communication between the SP Manager and the Program Manager is a key to the overall success of the program.

## **9. SPECIFIC POSITION REQUIREMENTS**

### **9.1 Queue Associate (TQM Agent)**

Queue Associates/TQM Agents furnished under this Agreement shall possess a high school diploma or a GED. All Queue Associates/TQM Agent must meet the training requirements set forth in Section 4.07 of this Agreement. All Queue Associates/TQM Agent shall be in good physical health and be fully capable of performing normal or emergency duties requiring moderate to arduous physical exertion such as standing or walking for an entire shift, climbing stairs, and running. They must be capable of handling a 25 lb. fire extinguisher and capable of lifting or assist in lifting a small child or handicapped person in the case of a building evacuation.

#### Essential Duties

1. Provide way-finding and customer services to the general public
2. Manage the queue systems at each of the security checkpoints including verification of appropriate credentials prior to entering into the queue systems
3. Checkpoint Diverting. Maintain equal utilization of all security checkpoints by diverting passengers to the checkpoints with the lowest wait time.
4. Data Metrics. Log and report checkpoint data metrics to include checkpoint wait times, available screening lanes, travel document check positions, and other checkpoint data
5. Follow established post orders
6. Manage line systems that extend beyond the queues
7. Ensure customers access the appropriate queue system (i.e. Premium, General, Registered Traveler, Employee, Crew, Pre-Check, etc.)
8. Provide general public with protocols on divesting personal items into approved screening tubs.
9. Maintain stanchion inventory by providing routine maintenance

10. Assists TSA Screening Checkpoint efficiency by providing essential customer service prior to accessing the Travel Document Check (TDC) podium
11. Reports security threats, fires, acts of vandalism, theft, illegal entry, and any other unauthorized or irregular activity to the airport management.
12. Assists customers by providing facility information, airport operations information, way-finding, and other general customer service inquiries
13. Observe all common safety and security practices.
14. Performs other related duties as assigned or requested.

Minimum Qualifications (Queue Associate/TQM Agent):

1. Integrity/Honesty: displays high standards of ethical conduct and understands the impact of violating these standards on an organization, self and others; chooses an ethical course of action, is trustworthy.
2. Conscientiousness: Displays a high level of effort and commitment toward performing work; demonstrates responsible behavior.
3. Interpersonal Skills: Shows understanding, friendliness, courtesy, tact, empathy, cooperation, concern and politeness to others; relates well to different people from varied backgrounds and different situations.
4. Verbal Skills: Must be able to speak and articulate in English, to communicate ideas and concepts in words to the appropriate audience with emphasis on verbal radio communication skills.
5. Technical Competence: Knowledge of how to perform one's job. Refers to specialized knowledge that is acquired through formal training and extensive on-the-job experience.
6. Customer Service: Works and communicates with clients and customers (both internal and external customers) to satisfy their expectations. Committed to continuous quality improvement.
7. Reading: Learns from written material by determining the main idea or essential message. Recognizes correct English grammar, punctuation, and spelling.
8. Listening: Receives, attends to, interprets, and responds to verbal messages and other cues such as body language in ways that are appropriate to listeners and situations.
9. Manages and Organizes Information: Identifies a need; gathers, organizes and maintains information; determines its importance and accuracy and communicates it by a variety of methods.
10. Knowledge of building safety and security sufficient to be able to respond to a variety of emergency and urgent situations
11. Knowledge of safety hazards and necessary safety precautions sufficient to be able to establish a safe working environment.
12. Skill in communicating and presenting factual information related to the work assignment.
13. Skill in establishing and maintaining effective working relationships with other employees, organizations and the public.
14. Skill in understanding and applying oral, written, illustrated, or demonstrated instructions.
15. Skill in enforcing rules and regulations.
16. Skill in investigating information relative to the work assignment.
17. Flexibility: Adapts quickly to changes.
18. Reasoning: Discovers or selects rules, principles, or relationships between facts and other information.

19. Skill in reacting calmly and effectively in emergency and stressful situations.
20. Skill in examining and verifying documents for accuracy, completeness and correcting errors.
21. Skill in the interpretation and application of written guidelines, precedents, and work practices to standardized work situations or specific cases.

## **9.2 SP Manager**

The SP Manager furnished under this Agreement shall possess a high school diploma, and three years experience in security, loss prevention or law enforcement. Additional appropriate education may be substituted for one year of the minimum experience requirement. The SP Manager shall be in good physical health and be fully capable of performing normal or emergency duties requiring moderate to arduous physical exertion such as standing or walking for an entire shift, climbing stairs, and running. They must be capable of handling a 25 lb. fire extinguisher and capable of lifting or assist in lifting a small child or handicapped person in the case of a building evacuation.

### Essential Duties:

1. Manage the TQM operation, ensuring the efficient and safe passenger flow through the Security Checkpoints at DIA
2. Create a staffing plan that meets passenger demands and TSA passenger forecasts.
3. Ensure TQM staff is in assigned positions and on time, following established post orders
4. Checkpoint Diverting. Ensures TQM staff remain focused on reducing passenger wait times while balancing passengers between the checkpoints
5. Line Management. Ensures TQM staff monitors line management events and irregular operations.
6. Ensures TQM staff participates in daily operational briefings
7. Work cooperatively with TSA, law enforcement, and other government agencies, tenants, airline operators, and other city employees to facilitate cooperation
8. Coaching and Counseling of TQM staff to ensure continuous improvement of TQM Program
9. Attend regular meetings with the DIA Program Manager
10. Monitor checkpoint data metrics to ensure compliance with goals as determined by airport management
11. Ensure compliance with quarterly incentive program goals
12. Assist TQM staff during irregular operations to ensure checkpoint efficiency
13. Manage the stanchion maintenance program
14. Promote a continuous improvement environment among TQM staff
15. Performs other related duties as assigned or requested

### Minimum Qualifications

1. Oral Communication: Expresses ideas and facts to individuals or groups effectively. Listens effectively.



2. Problem Solving: Identifies and analyzes problems, uses sound reasoning to arrive at conclusions, finds alternative solutions to complex problems, and makes logical judgments.
3. Written Communication: Expresses facts and ideas in writing in a succinct and organized manner.
4. Leadership: Inspires, motivates, guides others toward goals; coaches, mentors, challenges staff; adapts leadership styles to various situations; models high standards of honesty, integrity, trust, openness, and respect for individuals by applying these values daily.
5. Conflict Management: Manages and resolves conflicts, confrontations, and disagreements in a positive and constructive manner to minimize negative personal impact.
6. Managing Diverse Workforce: Is sensitive to cultural diversity, race, gender, and other individual differences in the workforce; manages workforce diversity.
7. Decisiveness: Makes sound and well-informed decisions, perceives the impact and implications of decisions; commits to action, even in uncertain situations, in order to accomplish organizational goals; causes change.
8. Integrity/Honesty: displays high standards of ethical conduct and understands the impact of violating these standards on an organization, self and others; chooses an ethical course of action, is trustworthy.
9. Conscientiousness: Displays a high level of effort and commitment toward performing work; demonstrates responsible behavior.
10. Interpersonal Skills: Shows understanding, friendliness, courtesy, tact, empathy, cooperation, concern and politeness to others; relates well to different people from varied backgrounds and different situations.
11. Verbal Skills: Must be able to speak and articulate in English, to communicate ideas and concepts in words to the appropriate audience with emphasis on verbal radio communication skills.
12. Technical Competence: Knowledge of how to perform one's job. Refers to specialized knowledge that is acquired through formal training and extensive on-the-job experience.
13. Customer Service: Works and communicates with clients and customers (both internal and external customers) to satisfy their expectations. Committed to continuous quality improvement.
14. Reading: Learns from written material by determining the main idea or essential message. Recognizes correct English grammar, punctuation, and spelling.
15. Listening: Receives, attends to, interprets, and responds to verbal messages and other cues such as body language in ways that are appropriate to listeners and situations.
16. Manages and Organizes Information: Identifies a need; gathers, organizes and maintains information; determines its importance and accuracy and communicates it by a variety of methods.
17. Knowledge of building safety and security sufficient to be able to respond to a variety of emergency and urgent situations
18. Knowledge of safety hazards and necessary safety precautions sufficient to be able to establish a safe working environment.
19. Skill in communicating and presenting factual information related to the work assignment.
20. Skill in establishing and maintaining effective working relationships with other employees, organizations and the public.

21. Skill in understanding and applying oral, written, illustrated, or demonstrated instructions.
22. Skill in enforcing rules and regulations.
23. Skill in investigating information relative to the work assignment.
24. Flexibility: Adapts quickly to changes.
25. Reasoning: Discovers or selects rules, principles, or relationships between facts and other information.
26. Skill in reacting calmly and effectively in emergency and stressful situations.
27. Skill in examining and verifying documents for accuracy, completeness and correcting errors.
28. Skill in the interpretation and application of written guidelines, precedents, and work practices to standardized work situations or specific cases.

## **10. SCHEDULING OF PERSONNEL**

- 10.1** The SP shall not assign any person to perform TQM services hereunder who has worked for the SP in any capacity in excess of twelve (12) hours per twenty-four (24) hour period or sixty (60) hours per week, with the exception of emergency situations.
- 10.2** The work week shall be defined as commencing with shifts beginning on or after twelve (12) midnight on Sunday and ending the following Sunday at midnight.
- 10.3** The above requirements may be waived by the Program Manager, in writing, at his/her sole discretion.

## **11. REPORTS**

- 11.1** WRITTEN REPORTS: The SP shall be required to provide written reports pertaining to applicable incidents involving the TQM Program, safety, security, and customer service at the checkpoints to the Denver International Airport Program Manager. Written reports must be received within 24 hours of the incident.
- 11.2** All hard copy and computer generated reports will be formatted and preserved for ninety (90) days with the intent that they will be utilized/reviewed pursuant to follow-up issues.
- 11.3** All information must be available to the Program Manager upon request.

## **12. UNIFORMS AND APPEARANCE**

- 12.1** Uniforms must be consistent among TQM personnel. The cost of uniforms shall be borne by the SP. TQM Agents must be well groomed and maintain appropriate hygiene.
- 12.2** UNIFORM TQM AGENT:

Dress shall consist of a vest or coat, dress shirt and dress pants/slacks, and appropriate footwear. Footwear/shoe types are approved by the Program Manager. The color and design of the vest shall be approved by the Program Manager so as to be easily recognizable, but not conflicting with uniforms worn by airport tenants and airline personnel. The uniform may be changed during the term of this Agreement with the consent and approval of the Program Manager.

### **13. EQUIPMENT PROVIDED BY SERVICE PROVIDER AND CITY**

The SP shall furnish all equipment, furniture, materials and supplies necessary and incidental to the performance of this Agreement except as stated herein. Specifically, and without limiting the foregoing, the SP will provide and maintain the following:

**13.1** RADIOS, KEYS AND CELL PHONES: Handheld radios will not be provided by Denver International Airport. TQM positions will not receive communications devices provided by the City. Any communication devices deemed necessary for the TQM positions will be provided by the SP at its cost and without remuneration from the City.

13.1.1. Denver International Airport will supply all keys related to functional areas under this Agreement, but does not include keys to SP office and other space leased from Denver International Airport. Keys will be issued by Terminal Operations. Lost or misplaced keys must be reported immediately to Terminal Operations. The SP may bear all expenses incurred in the re-keying of locks associated with a lost or misplaced key.

13.1.2. Cell phones will be provided by the SP

### **13.2** ADDITIONAL EQUIPMENT ACQUISITION AND EMPLOYEE PARKING

Additional specific equipment may be required during the course of the Agreement. If the SP is asked to provide additional equipment, the SP shall provide same and shall be reimbursed through the billing process. Once reimbursement is made, the equipment shall become the property of the City and shall be returned to the City at the conclusion of the Agreement. The SP shall be responsible for the care, repair and maintenance of said equipment and same shall be reimbursed through the billing process. No equipment purchased shall be made without the expressed, written approval of the Program Manager. NOTE: No additional equipment intended to be billed to the City shall be purchased by the SP with a unit cost of \$5000 or more. All equipment purchases with a unit cost of \$5000 or more shall be made by Denver International Airport.

**13.3** The cost of monthly parking at present and future rates shall be borne by the SP.

### **14. AIRPORT RULES AND REGULATIONS**

The SP and its officers, employees, guests, invitees, subcontractors and partners, and those doing business with the SP shall observe and obey all rules and regulations of the City and County of Denver as may be promulgated from time to time, including the Airport Rules and Regulations and Standard Operating Procedures. The SP will not use or permit Airport property or facilities to be used for any purpose prohibited by the laws of the United States or the State of Colorado or the Charter and Ordinances of the City and County of Denver. The SP shall use the roadways and other areas of Denver International Airport in accordance with all City rules and regulations.

## **15. EMPLOYMENT OF NON-US CITIZENS**

Because of the nature of work involved in this Agreement, the SP, and any subcontractor to the SP under this Agreement, shall employ only US Citizens for the work performed under this Agreement.

## **16. AIRPORT SECURITY**

**16.1** The SP shall comply with all rules, regulations, written policies and authorized procedures from the City and/or the TSA and/or the Federal Aviation Administration with respect to security. The SP 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, Public Safety, and Security Division, Department of Aviation.

**16.2** The SP shall obtain the proper access authorizations for all of its employees, subcontractors and suppliers 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. The SP shall be responsible for all costs relating to the security check and preparation of identification badges for each employee, subcontractor, partner and supplier. The SP shall be billed by DIA for such costs, which shall not be Reimbursable Expenses. Any person who violates Airport Rules and Regulations may be subject to revocation of his/her access authorization. The failure of the SP 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.

**16.3** The SP shall return to the City at the expiration or termination of this Agreement, or upon demand by the City, all access keys issued to it for any area of the Airport, whether or not restricted and all badges issued to its employees, subcontractors, partners and suppliers. If the SP fails to do so, the SP 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 SP under this Agreement.

## **17. SOLICITING**

No soliciting for any purpose is allowed on Airport premises by the SP's employees. The SP shall inform its employees of this Agreement requirement prior to the time each such employee shall begin work for the SP at Denver International Airport.

## **18. GRATUITIES**

Neither the SP nor its employees, officers and agents shall solicit or accept gratuities for any reason whatsoever from any employee of the City or the General Public.

## **19. CITY SMOKING POLICY**

The SP and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99, and Colorado State Law, prohibiting smoking in all indoor buildings and facilities. The SP agrees that it will prohibit smoking by its employees and the public in any areas made available to the SP hereunder.

## **20. USE OR POSSESSION OF ALCOHOL OR DRUGS**

**20.1** Pursuant to the provisions of Denver Executive Order No. 94, all City SPs are required to prohibit the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or illegal drug in City facilities or when performing City business. SPs shall also prohibit their employees or agents from consuming alcohol, being impaired by alcohol, or being under the influence of alcohol while performing City business.

**20.2** SP shall require employees to submit to blood, urine, or other screening for alcohol or drugs when there is reasonable suspicion of illicit use or the employee's being under the influence of or impaired by alcohol or drugs. Drug or alcohol screening may also be justified when, even though the employee does not exhibit observable symptoms of being under the influence, a workplace accident has occurred and there is reasonable suspicion that the accident may have been caused by human error which could be related to drug or alcohol use. The cost of such testing will be borne by the SP and is not a reimbursable expense.

**20.3** These policy provisions are applicable to SP personnel, and violation of these provisions or refusal to cooperate with implementation of the City's policy, can result in the City's barring contract personnel from City facilities or from participating in City operations.

## **21. OFFICE KEYS**

The SP will exercise extreme care to ensure that keys or other access devices to its offices, City offices and vehicles are restricted only to those personnel requiring the keys

to perform their duties properly. The SP will maintain at all times a current log or master list identifying each of its employees who has an office key and identifying each office to which each employee has been issued such key or access device. The SP will be responsible for keys issued to its employees and will pay the City for the cost of replacements.

# **SECTION 5 COMPENSATION AND PAYMENT**

## **1. INVOICING**

The SP shall furnish to the airport a Biweekly invoice. If additional positions are requested, the SP shall furnish to the airport with its Biweekly Invoice, a true and correct copy of the Payroll Records for all workers employed under this Agreement. Denver International Airport will pay only for hours actually worked.

The City *will not* compensate the SP for overtime or additional hours worked by its employees unless written approval is received from airport administration.

Invoicing must include:

1. Contract Reference ID Number
2. Items listed individually by unit
3. Unit price extended and totaled
4. Quantity delivered
5. Invoice number and date
6. Start and end dates of billing cycle.
7. Requesting department name and "ship to" address
8. Payment terms
9. Invoice breakdown documentation
10. Employee hours
11. Employee name and identification number
12. Employee hourly wage

## **2. TIME OF PAYMENT**

DIA management shall process all invoices for payment received from SP on a timely basis in accordance with Section 20-107, et. seq. of the DRMC.

## **3. BILLING FOR SPECIAL PROJECTS**

Billing for special projects will be sent to the Program Manager for approval and forwarded to the responsible party for payment. Billing rates for special projects will be agreed upon prior to the commencement of the special projects. The Program Manager may pre-approve special project billing to be forwarded directly to the appropriate party from the SP.

#### **4. REIMBURSABLE EXPENSES**

The SP shall pay all costs and expenses connected with the operations hereunder when due; except as provided elsewhere in this Agreement, no expenses of the SP shall be reimbursable hereunder. Any reimbursement of expenses other than as described herein shall require an amendment to this Agreement.

#### **5. DEDUCTIONS FOR NON-PERFORMANCE OR SUBSTANDARD PERFORMANCE**

In the event the SP shall fail in the performance of the work specified and required to be performed or material to be delivered within the time limit set forth within the Agreement, after due allowance for any extensions of the time granted by the Manager or his authorized representative, the SP shall be liable to the City, as liquidated damages and not as a penalty, the amounts noted below for each and every failure in performance by the SP. The City shall have the right to make deductions from any amount due or that may become due the SP or collect such liquidated damages from the SP or his surety. Instances where deductions from unpaid billings may occur and the specific deductions for it shall include but are not limited to:

<b>INCIDENT</b>	<b>SPECIFIC DEDUCTION</b>
1. Insufficient number of personnel	\$500 per incident
2. Incomplete, unacceptable, dirty uniform to include unacceptable hygiene	\$50.00 per documented incident
3. Late appearance of employee for work / Failure to follow post orders	\$100.00 per occurrence
4. Failure to maintain accurate records of hours worked	\$100.00 per occurrence
5. Failure to provide and/or complete an incident report	\$50.00 per occurrence
6. Failure to document or inaccurate checkpoint/queue metrics	\$50.00 per occurrence

Any instance of an imposition of deductions from balances owed for non-performance or unacceptable performance or delayed performance, as above, shall be prima facie evidence of a deficiency in the SP's performance and authorized personnel of the Department of Aviation shall document the incidents of non-performance or unacceptable performance or delayed performance on a "Vendor Deficiency/Deviation Report" which shall be forwarded to the appropriate Purchasing Division Buyer responsible for the bid administration of the Agreement.



# **SECTION 6**

## **AGREEMENT ADMINISTRATION**

### **1. AUTHORITY OF THE CONTRACT ADMINISTRATOR**

- 1.1** The day to day administration of this Agreement is vested in the Program Manager. The Program Manager is to have free access to the Service Provider's work areas at Denver International Airport. The Program Manager will decide any and all questions which may arise as to the quality and acceptability of uniforms, supplies, and equipment furnished and work performed, and as to the manner of performance and rate of progress of the work.
- 1.2** The Program Manager may from time to time issue the SP written Procedures, which shall provide detailed procedures and/or standards for the performance of specific aspects of the SP's work hereunder. The Procedures shall not materially change the specifications or scope of work herein, but shall give guidance to the SP's performance of such work which is in accord with then existing conditions. The SP shall comply with the Procedures which are in effect at any time. The Program Manager may amend or rescind any Procedure by notice in writing to the SP.
- 1.3** In addition to issuing, amending or rescinding Procedures, the Program Manager may make changes in the specifications of work performed by the SP, if such changes do not alter the general nature of the work being performed. Notice to the SP of such changes will be made orally if the duration of such changes is less than one week; otherwise, notice will be given in writing.

### **2. SERVICE PROVIDER'S PERFORMANCE**

If in the opinion of the Program Manager, the SP's performance under this Agreement becomes unsatisfactory, the City shall notify the SP in writing, specifying the instances of unsatisfactory performance. The SP shall have twenty-four (24) hours from the time of such notice to correct any specific instances of unsatisfactory performance. In the event the unsatisfactory performance is not corrected within the time specified above, the City shall have the immediate right to complete the work to its satisfaction and shall deduct the cost to cover same from any balances due or to become due the SP.

### **3. DISPUTE RESOLUTION**

Disputes arising out of this Agreement shall be resolved by administrative hearing before the Manager following the procedures outlined in DRMC Section 5-17; provided, that City shall retain its right to obtain an order of eviction in accordance with applicable state law. It is further agreed that no cause of action shall be brought against the City until there has been full compliance with the terms of this Section.

#### **4. LABOR ACTIVITY**

If any strike, boycott, picketing, work stoppage, slowdown, or other labor activity is directed against the SP at Denver International Airport which results in the curtailment or discontinuation of services performed hereunder, the City shall have the right during said period to employ any means legally permissible to have the work performed. This shall include the use of the SP's equipment, and the Manager or his authorized representative in his/her sole discretion shall determine the reasonable value of said equipment for purposes of reimbursement to the SP.

# **Appendix A**

## **Compliance and Incentive Program**

### **A. COMPLIANCE AND INCENTIVE PROGRAM**

The Compliance and Incentive Program will be administered quarterly and will consist of general areas such as, but not limited to, On-Site Management Performance, Employee Performance, Customer Service, Data Measurement and Diverting/Checkpoint Wait Time Statistics. Individual categories under each area will be mutually agreed upon between the SP and the City and may be altered periodically to reflect the dynamic nature of the airport environment and changing regulatory responsibilities. Some category matrixes may require statistical measurements provided by the SP and/or City while others may require observational reports or written recaps. The categories and matrices to be used during a particular quarterly period will be mutually determined and agreed upon prior to the start of that period. In the absence of mutual agreement following good-faith discussions, the City shall designate categories and matrices. A sample worksheet and scoring methodology example is found below.

### **B. SCORING**

Throughout the quarterly period being measured, the SP and the City will collect statistics and documentation relating to the categories. At the conclusion of the quarter, the SP's on-site management group and the Contract Manager will compile the information and schedule a meeting to score the Incentive Program for that period. This meeting will be conducted within twenty-five (25) days of the end of the quarter being measured. Prior to the meeting, the SP and the City will exchange documentation each has compiled for review by each of the Incentive Program Review Board members who will perform a preliminary scoring of each category.

### **C. INCENTIVE PROGRAM REVIEW BOARD**

The Incentive Program Review Board will be comprised of the following individuals:

- a.** SP Manager
- b.** Program Manager
- c.** Additional City or Outside employee (chosen by the Program Manager)

Any substitution of the above must be pre-approved by the Program Manager. Additional individuals employed by the SP or the City may participate in the Incentive Program Review meeting but only the three (3) Board members will have their scores applied to the final Incentive Program calculation. During this meeting, the preliminary scores of the three Board members will be discussed and a final score determined. The Program Manager will then prepare on behalf of the City the necessary approval letter to allow the SP to submit an invoice for the Incentive Program Award for that quarter.

**D. INCENTIVE PROGRAM QUARTERLY AWARD AND PAYMENTS**

Maximum amount of the quarterly incentive will be 1.5% of the applicable quarter’s actual billing gross amount. This must be verified by the Program Manager. Should the billing cycle not coincide with the quarterly review period, the Program Manager will delay preparing the approval letter sent to SP until the entire quarter’s invoicing is complete.

Any and all amounts in excess of the stated compensation, which are paid to the SP as a result of the Incentive Program are intended to encourage and reward the highest quality performance by the SP and its DIA site employees. The SP shall be required to share all net Incentive Payments under this provision with its DIA site employees. The SP shall furnish to the City a record of the quarterly employee distribution which it makes as required by this section within 15 days after the date of such distribution.

Exceptions to the quarterly incentive calculation include:

- Any Incentive Program Award from the previous quarter
- Deductions for repair or replacement of City provided equipment.
- Any specific security equipment purchased by the SP as requested by the City that will be reimbursed through the billing process.
- Deductions for “non-performance or substandard performance”.

**“Sample” Incentive Program Worksheet**

<b>On-Site Management Performance</b>	<b>Max Points*</b>	<b>Awarded Points</b>	<b>Performance Metrics provided by:</b>
Categories to be Rated for Quarter			
Billing Accuracy	10		SP/City
Employee Retention/Turnover	5		SP
Task Guideline Knowledge Tests & Observations	10		SP
Responsiveness to City Requests	10		City
<b>TOTALS</b>	<b>35</b>		

<b>Employee Performance/Customer Service</b>	<b>Max Points*</b>	<b>Awarded Points</b>	<b>Performance Metrics provided by:</b>
Categories to be Rated for Quarter			
Employee Incentive Program	10		SP
Employee Audits & Observations	10		City
Training Requirements	8		SP

Customer Complaints	2		SP
TOTALS	30		

<b>Diverting / Checkpoint Wait Times</b>	<b>Max Points*</b>	<b>Awarded Points</b>	<b>Performance Metrics provided by:</b>
Categories to be Rated for Quarter			
Diverting / Checkpoint Wait Times within the established goal	35		SP/City
TOTALS	35		

**NOTE:** \* Max Points for General Areas and weighting of each individual category may be altered periodically to reflect the dynamic nature of the airport environment and changing regulatory requirements. Changes will be mutually determined and agreed upon between the SP and the City prior to start of the quarterly period to be reviewed or, in the absence of agreement, be designated by the City.

**“Sample” Incentive Program Scoring Methodology**

General Areas:	Max Points	Review Board Member #1	Review Board Member #2	Review Board Member #3
On-Site Management Performance	35	<u>32</u>	<u>33</u>	<u>32</u>
Employee Performance/Customer Service	30	<u>26</u>	<u>28</u>	<u>28</u>
Diverting/Checkpoint Wait Times	35	<u>33</u>	<u>33</u>	<u>33</u>
TOTALS	100	<u>91</u>	<u>94</u>	<u>93</u>
FINAL SCORE		<u>91</u>	<u>94</u>	<u>93</u>

- Step 1: Each Review Board Member reviews compiled information and completes a Worksheet assigning a point value to each General Area.
- Step 2: Totals from each Review Board Member are added together and divided by 3.
- Step 3: Average number obtained from Step 2 becomes the Final Score.
- Step 4: Final Score is used to determine which percentage from the Incentive Scale will be used to calculate the quarterly Incentive Program Quarterly Award.

Incentive Scale:	
95-100 points	1.5% of Applicable and Approved Billing Invoices for Quarter
85-94 points	1.0% of Applicable and Approved Billing Invoices for Quarter
75-84 points	0.5% of Applicable and Approved Billing Invoices for Quarter
74 points or below	No Incentive for the Quarter





**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: 201206886 - TQM and TQM –Registered Traveler**

**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 [professional services other than Information Technology]**

**Coverage: Professional Liability**

**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. Policies written on a claims-made basis must remain in force for three years ERP in accordance with CRS 13-80-104.
2. If the coverage is written on a claims-made basis the Insured warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract.
3. Any cancellation notice required herein must be provided by Certified Mail. Coverage must extend, by endorsement or otherwise, to cover the full scope of all environmental services performed under the insured's contract with the City.

### **Crime: Money & Securities of Others / Employee Dishonesty/Computer Fraud**

**Coverage:**

**Minimum Limits of Liability**

Maximum amount of funds in care, custody or control at any one time

Money and Securities of Others Employee Dishonesty

Computer Fraud (if consultant will have access to financial documents on City computer systems)

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

1. Coverage must extend to cover all City funds in the care, custody and control of the Insured by endorsement; endorsement must apply coverage directly to City via third party endorsement.

## **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.

## EXHIBIT F

### PERFORMANCE BOND

**KNOW ALL MEN BY THESE PRESENTS**, that we, the undersigned [Bidder name], a corporation organized under the laws of the State of [Bidder state], hereinafter referred to as the "Contractor" and [Bond issuer], a corporation organized under the laws of the State of [Bond company state], and authorized to transact business in the State of Colorado, hereinafter referred to as Surety, are held and firmly bound unto the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, hereinafter referred to as the "CITY", in the penal sum of [Bid amount text] Dollars (\$[Bid amount numbers]), lawful money of the United States of America, for the payment of which sum the Contractor and Surety bind themselves and their heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

**WHEREAS**, the above Contractor has entered into a written contract with the City for furnishing all labor, materials, equipment, tools, superintendence, and other facilities and accessories for the construction of Contract No. **Error! Reference source not found., Error! Reference source not found.**, Denver International Airport, in accordance with the Technical Specifications, Contract Drawings and all other Contract Documents therefor which are incorporated herein by reference and made a part hereof, and are herein referred to as the Contract.

**NOW, THEREFORE**, the condition of this performance bond is such that if the Contractor:

1. Promptly and faithfully observes, abides by and performs each and every covenant, condition and part of said Contract, including, but not limited to, its warranty provisions, in the time and manner prescribed in the Contract, and
2. Pays the City all losses, damages (liquidated or actual, including, but not limited to, damages caused by delays in the performance of the Contract), expenses, costs and attorneys' fees, that the City sustains resulting from any breach or default by the Contractor under the Contract, then this bond is void; otherwise, it shall remain in full force and effect.

**IN ADDITION**, if said Contractor fails to duly pay for any labor, materials, team hire, sustenance, provisions, provender, or any other supplies used or consumed by said Contractor or its subcontractors in its performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment, all amounts due as the result of the use of such machinery, tools, or equipment in the prosecution of the work, the Surety shall pay the same in an amount not exceeding the amount of this obligation, together with interest as provided by law.

**PROVIDED FURTHER**, that the said Surety, for value received, hereby stipulates and agrees that any and all changes in the Contract or compliance or noncompliance with the formalities in the Contract for making such changes shall not affect the Surety's obligations under this bond and the Surety hereby waives notice of any such changes.

(End of Page)

**IN WITNESS WHEREOF**, said Contractor and said Surety have executed these presents as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CONTRACTOR

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

\_\_\_\_\_  
SURETY

By: \_\_\_\_\_  
Attorney-in-Fact

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond.)

**CITY AND COUNTY OF DENVER**

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

By: \_\_\_\_\_  
Manager of Aviation

**APPROVED AS TO FORM:**

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

By: \_\_\_\_\_  
Assistant City Attorney

## APPENDIX NO. 1

### STANDARD FEDERAL ASSURANCES

NOTE: As used below the term "contractor" shall mean and include the "Party of the Second Part," and the term "sponsor" shall mean the "City".

During the term 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 shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, creed or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontractors, 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall 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 (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor of the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## APPENDIX NO. 3

### NONDISCRIMINATION IN AIRPORT EMPLOYMENT OPPORTUNITIES

The Party of the Second Part assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision obligates the Party of the Second Part or its transferee for the period during which Federal assistance is to provide, or is in the form of personal property or real property or an interest herein or structures or improvements thereon. In these cases, this Provision obligates the Party of the Second Part or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this Provision binds the contractors from the bid solicitation period through the completion of the contract.

**It is unlawful for airport operators and their lessees, tenants, concessionaires and contractors to discriminate against any person because of race, color, national origin, sex, creed, or handicap in public services and employment opportunities.**