

SECOND AMENDMENT TO THE AGREEMENT

THIS SECOND AMENDMENT TO THE AGREEMENT, (“Amendment”) is made and entered into as of the date stated on City’s signature page below by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado acting on behalf of its Department of Aviation (“City”), and **LS GALLEGOS & ASSOCIATES INC**, a corporation organized under the laws of the state of Colorado and authorized to do business in Colorado (“Gallegos” or “Consultant”) (collectively “Parties”).

WITNESSETH:

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

WHEREAS, the City and Consultant entered into a written Agreement, Contract No. 201839866-00 dated November 29, 2019 (“Agreement”) wherein they agreed Consultant will provide on call technical and support personnel to provide project management services to the City; and

WHEREAS, the City and Consultant amended the Agreement in Contract No. 201952465/201839866-01, to amend the Duties and Responsibilities of Consultant and other terms to include work related to the Great Hall Project; and

WHEREAS, pursuant to the Agreement, as amended, Consultant has provided employees to assist with the project management of the Great Hall Project;

WHEREAS, pursuant to the Agreement, as amended, Consultant’s employees have been providing project management services to the City related to the Great Hall Project, including Phases 1 and 2 and additional project management services related to the Completion Phase of the Project; and

WHEREAS, the City now wishes to add additional funds, Term and other provisions to the Agreement with this Second Amendment in order for Consultant to continue to provide project management services through completion of the Project; and

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

WHEREAS, the Consultant is willing and able to perform the Work;

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

1. Article III, subsection A, titled Term, is hereby deleted in its entirety and replaced with the following:

A. **Term.** The Term of this Agreement shall commence on date of execution (“**Effective Date**”), and shall terminate on December 31, 2028, unless sooner terminated as provided in this Agreement (“**Expiration Date**”). These extensions, if exercised by the Airport, shall be exercised by providing written notice to the Consultant. Should for any reason the Term expire prior to the completion by Consultant of any outstanding work, which has previously been authorized, then in the CEO’s sole discretion this Agreement shall remain in full force and effect to permit completion of any work that was commenced prior to the date that otherwise would have been the termination date.

2. Article IV, subsection A, titled Maximum Contract Liability is hereby deleted in its entirety and replaced with the following:

A. **Maximum Contract Liability.** Notwithstanding any other provision of this Agreement, in no event shall the City be liable for payment for services rendered and expenses incurred by Consultant under the terms of this Agreement for any amount in excess of the sum of Seventy-Eight Million Dollars and No Cents (\$78,000,000.00) (the “**Maximum Contract Liability**”). Consultant will be performing the services on a time and material basis up to the Maximum Contract Liability. Consultant’s fee is based on the time required by its professionals to complete the services. Individual hourly rates are set forth in **Exhibit E** and vary according to the experience and skill required.

3. Article VII, subsection C, titled City’s Non-Discrimination Policy is hereby deleted in its entirety and replaced with the following:

C. **No Discrimination in Employment.** In connection with the performance of work under the Agreement, the Consultant may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Consultant shall insert the foregoing provision in all subcontracts.

4. Article VII, subsection G, titled Examination of Records is hereby deleted in its entirety and replaced with the following:

G. Examination of Records.

1. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City’s election in paper or electronic form, any pertinent books, documents, papers and records related to Consultant’s performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Consultant shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of six (6) years after the final payment under the Agreement or expiration of the

applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Consultant to make disclosures in violation of state or federal privacy laws. Consultant shall at all times comply with D.R.M.C. §20-276.

2. Additionally, Consultant agrees until the expiration of six (6) years after the final payment under the Agreement, any duly authorized representative of the City, including the CEO, shall have the right to examine any pertinent books, documents, papers and records of Consultant related to Consultant's performance of this Agreement, including communications or correspondence related to Consultant's performance, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program.
3. In the event the City receives federal funds to be used toward the services performed under this Agreement, the Federal Aviation Administration ("FAA"), the Comptroller General of the United States and any other duly authorized representatives shall have access to any books, documents, papers and records of Consultant, which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. Consultant further agrees that such records will contain information concerning the hours and specific services performed along with the applicable federal project number.

5. Article VII, subsection K, titled Prohibition Against Employment of Illegal Aliens to Perform Work Under this Agreement is hereby deleted in its entirety and replaced with the following:

K. No Employment of a Worker Without Authorization to Perform Work Under the Agreement

1. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "**Certification Ordinance**").
2. The Consultant certifies that:
 - A. At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.
 - B. It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are

newly hired for employment to perform work under this Agreement.

- C. It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Consultant that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.
 - D. It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
 - E. If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Consultant shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.
 - F. It will comply with a 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 D.R.M.C. 20-90.3.
3. The Consultant is liable for any violations as provided in the Certification Ordinance. If the Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If this Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the City. Any termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying the Consultant from submitting bids or proposals for future contracts with the City.

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

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

[SIGNATURE PAGES FOLLOW]

Contract Control Number: PLANE-Jaggaer 202161483-02 / Alfresco 201839866-02
Contractor Name: LS GALLEGOS & ASSOCIATES INC

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

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver


By:

By:

By:

Contract Control Number:
Contractor Name:

PLANE-Jaggaer 202161483-02 / Alfresco 201839866-02
LS GALLEGOS & ASSOCIATES INC

By:  _____

Name: Melanie Urso
(please print)

Title: Chief operating officer
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)