

## THIRD AMENDATORY AGREEMENT

This **THIRD AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **THE DENVER FOUNDATION**, whose address is 1009 Grant Street, Denver, Colorado 80203 (the “Contractor”), jointly (“the Parties”).

### RECITALS:

**A.** The Parties entered into Agreement dated September 1, 2020, a First Amendatory Agreement dated March 31, 2021, and a Second Amendatory Agreement dated June 16, 2021 (collectively, the “Agreement”) to provide legal services.

**B.** The Parties wish to amend the Agreement to extend the term and increase the maximum contract amount.

**NOW THEREFORE**, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

**1.** All references to “...Exhibit A, A-1 and A-2...” in the Agreement shall be amended to read: “...Exhibit A, A-1, A-2 and A-3...” as applicable. The scope of work marked as **Exhibit A-3** attached to this Third Amendatory Agreement is hereby incorporated by reference.

**2.** Section 1 of the Agreement entitle **COORDINATION AND LIAISON** is deleted in its entirety and replaced with:

“**1. COORDINATION AND LIAISON**: The Contractor shall fully coordinate all services under the Agreement with the City Attorney or the City Attorney’s designee (the “City Attorney”).”

**3.** Section 3 of the Agreement entitled **TERM** is hereby deleted in its entirety and replaced with:

“**3. TERM**: The Agreement will commence on January 1, 2020, and will expire, unless sooner terminated, on December 31, 2022.”

**4.** Section 4 of the Agreement entitled **COMPENSATION AND PAYMENT** is hereby deleted in its entirety and replaced with:

#### **4.4 Maximum Contract Amount:**

**4.4.1** Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **ONE MILLION**

**FOUR HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$1,450,000.00)** (the “Maximum Contract Amount”). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by the Contractor beyond that specifically described in Exhibit A, A-1, A-3 now referenced as A-3. Any services performed beyond those in Exhibit A-3, or as directed by Chief in writing, are performed at the Contractor’s risk and without authorization under the Agreement.”

5. Section 20 of the Agreement, entitled “**NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THE AGREEMENT**”, is amended to read as follows:

**“20. NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THE AGREEMENT:**

a. 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”).

b. The Contractor certifies that:

(1) 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.

(2) 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.

(3) It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

(4) 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.

(5) 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 Contractor 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.

(6) 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.

c. The Contractor is liable for any violations as provided in the Certification Ordinance. If the Contractor 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 Contractor 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 Contractor from submitting bids or proposals for future contracts with the City.

6. Section 23 of the Agreement entitled **“NO DISCRIMINATION IN EMPLOYMENT”** is deleted and amended to read as follows:

**“23. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under the Agreement, the Contractor 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 Contractor shall insert the foregoing provision in all subcontracts.”

7. The following new section is added after Section 39:

**“40. NO ATTORNEY-CLIENT REALTIONSHIP:** The Parties expressly acknowledge and agree that no attorney-client relationship has been established between the City and the Contractor by virtue of executing this Agreement. Any professional legal services specified under this Agreement shall be performed by a licensed attorney and in conformance with the Colorado Rules of Professional Conduct. At all times, the Contractor will exercise its independent professional judgment and make all final decisions regarding its cases and clients.”

8. All references to “Director” in the Agreement shall be replaced with “City Attorney.”

**9.** As herein amended, the Agreement is affirmed and ratified in each and every particular.

**10.** This Third Amendatory Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

**Contract Control Number:** ATTNY-202261680-03  
**Contractor Name:** ALFRESCO-202055438-03  
THE DENVER FOUNDATION

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

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

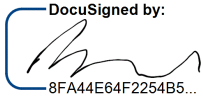
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By:

\_\_\_\_\_

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

ATTNY-202261680-03  
ALFRESCO-202055438-03  
THE DENVER FOUNDATION

By:  \_\_\_\_\_  
8FA44E64F2254B5...

Name: Dace West  
(please print)

Title: Chief Impact officer  
(please print)

ATTEST: [if required]

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

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

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

EXHIBIT A-3  
SCOPE OF SERVICES

The Denver Immigrant Legal Services Fund (the “Fund”) of the Denver Foundation (the “Foundation”) will provide grant funding to 501(c)(3) nonprofit organizations. All grants awarded from the Fund must satisfy the criteria described below.

**A. Scope of Legal Services:** Subject to the requirements set forth in Section B below, the Scope of Legal Services will include the following two primary areas in order of priority:

1. Direct Legal Representation: Direct legal representation included:
  - a. Removal defense for persons in the Aurora detention facility and/or subject to removal proceedings in the Aurora or Denver Immigration Courts, including bond hearings, detained removal, non-detained removal, transfer of venue proceedings for transfer to Denver Immigration Court, collateral proceedings incident to removal defense, and any costs associated with defense; and
  - b. Legal screening, consultation, and representation regarding potential forms of affirmative relief, including but not limited to DACA or DREAM Act-related relief, Special Immigrant Juvenile Status (SIJS), asylum, U visas and T visas, Violence Against Women Act (VAWA), naturalization, and individuals eligible or facing the loss of Temporary Protected Status or other discretionary status.
2. Building Capacity for Direct Legal Representation: Resources and strategies to expand: the pool of pro bono immigration attorneys providing direct legal representation under A.2.a and A.1.b, including but not limited to hiring trained immigration lawyers to serve as trainers, mentors, and pro bono coordinators; the pool of “low-bono” immigration attorneys providing direct representation under A.2.a and A.2.b; and the use of law school clinics and law students providing direct legal representation under A.2.a and A.2.b.
3. Limited Legal Fellowship program - In response to current unmet needs in both removal defense and affirmative representation funding is provided for one qualified, community-focused immigration attorney fellow and one dedicated paralegal for this fellow for 2022, and renewable in 2023 only. Funds can be utilized for existing staff or new recruitment that meet this funding eligibility. Funding for this legal fellowship may include a request for funding to assist in the course of their representation, including legal resources and/or scholarships to help with paying filing and other representation related application

fees. Funding requested to be utilized for legal resources, scholarships for legal fees or other application fees must be proportionate to the cases proposed to be represented. For example, 10 cases = \$500 per case for interpretation, filing fees, etc. Note: Any current DILSF grantee may also apply for funding to assist clients with legal resources and/or scholarships to help for paying filing and other representation related application fees in the course of their currently funded representation.

**B. Eligibility Requirements: Populations to be Served:** Grants from the Fund to 501(c)(3) nonprofit organizations may be used by those organizations to provide legal support only to individuals who meet all of the below eligibility requirements:

1. Immigration Status: Individuals subject to actual or potential immigration removal proceedings; have been arrested or detained by immigration officials; and/or have a final order of removal. "Subject to potential immigration removal proceedings" is broadly interpreted to include immigrants who are not in active removal proceedings but could be removed based on their immigration status (including but not limited to DACA or DREAM Act-related relief, Special Immigrant Juvenile Status (SIJS), asylum, U visas and T visas, Violence Against Women Act (VAWA), naturalization, and individuals eligible or facing the loss of Temporary Protected Status or other discretionary status).
2. Residency: Individuals who are current residents of the City and County of Denver. "Resident" means: an individual living in the State of Colorado not temporarily and is present in the City and County of Denver, as set forth in Section 29-83 of the Denver Revised Municipal Code.
3. Income Limitation: Individuals with a maximum household income of 200% of the Federal Poverty Level.
4. Prioritization of Viable Cases: All non-profit organizations receiving Fund grants from the Foundation shall:
  - a. Be responsible for screening individual applicants to ensure the applicants meet the eligibility requirements described in this Section B; and
  - b. Only provide services to persons who present with viable claims for affirmative relief or defenses from removal.



C. **Reporting:** The Foundation shall require that each recipient of a grant from the Fund verify that all individuals receiving legal services funded with the proceeds of a Fund grant satisfy the eligibility requirements in Section B above. The Foundation shall include in the annual report data as agreed to with the Advisory Committee, including:

1. Total eligible Denver residents with a breakdown of how many were assisted, how many were not served due to program capacity, how many were released on bond, how many won their cases, how many residents still have cases pending, how many residents lost their case and were deported.
2. How many residents received the following in removal defense legal services: A legal orientation, representation in a bond hearing, master and/or final hearing (quantify each by detained vs non-detained hearings)
3. How many residents received the following in affirmative relief legal services: number of cases and types submitted; number of cases pending; number of cases approved
4. Describe any success in the following areas of impact for your clients such as economic, public safety, health, education, and civic engagement.

D. **Budget:**

2020 Services: \$200,000

2021 Services: \$500,000.00 Removal defense for detained individuals/All other legal services described in Section A above

2022 Services: \$500,000.00 Removal defense for detained individuals/All other legal services described in Section A above

2022 Limited Legal Fellowship Program: \$250,000 for legal fellowship, paralegal, legal resources and filing fees for All other legal services described in Section A. 1. above

\$1,450,000.00 Total

