

## SECOND AMENDATORY AGREEMENT

This **SECOND AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **KM CONCESSIONS, LLC**, a Colorado limited liability company doing business at 4655 Humboldt, Denver, Colorado 80216 (the “Contractor”), jointly (“the Parties”).

### WITNESSETH:

**WHEREAS**, the Parties entered into Agreement dated April 16, 2020 (the “Agreement”), amended by the Amendatory Agreement dated May 15, 2020, to contract for the provision of meals for people experiencing homelessness at a consolidated shelter located at the Denver Coliseum and at the National Western Complex’s Hall of Education, where the Contractor is the concessionaire for food and drink .

**WHEREAS**, the Parties wish to amend the Agreement to extend the term and increase funding.

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

1. Paragraph 3 of the Agreement entitled **TERM** is amended to read as follows:

“**3. TERM**: This Agreement shall begin for dinner on April 9, 2020 and shall terminate unless extended by the parties as allowable herein at the end of the day on July 15, 2020. The Parties may extend the Term upon mutual agreement.”

2. Paragraph 4 of the Agreement entitled **COMPENSATION AND PAYMENT** Section (c) entitled “**Invoicing**” and (d)(1) entitled “**Maximum Contract Amount**” is amended to read as follows:

“**4. COMPENSATION AND PAYMENT**:

**c. Invoicing**: Contractor shall bill City weekly for meals provided at the rates provided herein. Contractor shall provide the City with an invoice for the balance due at the end of the Term in a format and with a level of detail acceptable to the City including all supporting documentation required by the City. The City’s Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

**d. Maximum Contract Amount**:

**(1)** Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **FIVE MILLION SIX HUNDRED FORTY-FIVE THOUSAND FOUR HUNDRED FIVE DOLLARS (\$5,645,405.00)** (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 Contractor beyond that specifically described in Exhibit A-2. Any services performed beyond those in Exhibit A-2 are performed at Contractor's risk and without authorization under the Agreement.”

3. Exhibit A is replaced by Exhibit A-2, attached hereto and incorporated herein.
4. As herein amended, the Agreement is affirmed and ratified in each and every particular.
5. This 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.

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**Contract Control Number:** HOST-202054367 /HOST-202054882-02  
**Contractor Name:** K-M CONCESSIONS, LLC

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:**

HOST-202054367 /HOST-202054882-02  
K-M CONCESSIONS, LLC

By: 

Name: Christopher McNicholas  
(please print)

Title: General Counsel  
(please print)

ATTEST: [if required]

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

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

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

Exhibit A-2 - Scope of Work and Budget, KM Concessions LLC

Service	Price Per Day	Days	Qty	Total
<b>April Contract Amount</b>				
Included meals and snacks for April 9 - 30	n/a	n/a	n/a	\$ 488,875.00
<b>2. Denver Homeless Meal Plan - May</b>				
Breakfast, Lunch & Dinner provided to Denver's homeless community daily. Price is based on a guarantee of 1,200 people per day at \$25.50 per person from May 1 - May 31. 100 of the 1,200 meals served will be a vegetarian option.	\$25.50	31	1200	\$ 948,600.00
<b>3. Denver Homeless Snack and Beverage Plan</b>				
Am and Pm beverage and snacks provided to Denver's homeless community daily. Delivered to the National Western Complex. Price is based on a guarantee of 1,200 people per day at \$5.00 per person from May 1 - May 31.	\$ 5.00	31	1200	\$ 186,000.00
<b>4. Snack Delivery Fee - May</b>				
One Time Fee	n/a	n/a	n/a	\$ 3,000.00
<b>5. Equipment and Set Up - May</b>				
One Time Fee	n/a	n/a	n/a	\$ 3,000.00
<b>6. Denver Homeless Meal Plan - June to Mid-July</b>				
Breakfast, Lunch & Dinner provided to Denver's homeless community daily. Price is based on a guarantee of 2,500 people per day at \$25.50 per person from June 1 - July 15. <b>208 of the 2,500 meals served will be a vegetarian option.</b>	\$ 25.50	45	2500	\$ 2,868,750.00
<b>7. Denver Homeless Snack and Beverage Plan - June to Mid-July</b>				
Am and Pm beverage and snacks provided to Denver's homeless community daily. Delivered to the National Western Complex. Price is based on a guarantee of 2,500 people per day at \$5.00 per person from June 1 - July 15.	\$ 5.00	45	2500	\$ 562,500.00
<b>8. Snack Delivery Fee - June to Mid-July</b>				
One Time Fee	n/a	n/a	n/a	\$ 3,000.00
<b>9. Equipment and Set Up - June to Mid-July</b>				
Breakdown	n/a	n/a	n/a	\$5,000
<b>10. Contingency</b>				
Contingency	n/a	n/a	n/a	\$ 200,000.00
<b>11. May Overage (meals served over 1,200 guarantee)</b>				
May Overage	n/a	n/a	n/a	\$ 376,680.00
<b>Total</b>				<b>\$ 5,645,405.00</b>

Additional Assumptions:

Staffing KM/SSA will provide all culinary staff to prepare the food City of Denver will provide all service staff to serve Meal service will be provided at both Coliseum and NWC.

Assumes meal time at each facility includes:

7:00 - 8:00 Breakfast

12:00 - 1:00 Lunch

5:00 - 6:00 Dinner

Equipment and Set Up includes:

- Chaffing Pans Sternos
- Serving Utensils
- Food Tray/Box
- Sanitation of Equipment
- Set up and Tear Down Staff