

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, acting on behalf of its Department of Aviation (the “**City**”), and **APEX SYSTEMS, LLC, DBA GLIDEFAST CONSULTING**, a Virginia limited liability company authorized to do business in the State of Colorado whose address is 4400 Cox Road, Suite 200, Glen Allen, Virginia 23060 (the “**Contractor**”), individually a “**Party**” and jointly “the Parties.”

RECITALS

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

WHEREAS, the City issued a Request for Proposal No. 202474761 dated July 19, 2024, (the “**RFP**”) for software license acquisition, support services, professional services, and training services for the ServiceNow platform (“**System**”); and

WHEREAS, Contractor submitted a proposal dated August 30, 2024 (“**Contractor’s Proposal**”); and

WHEREAS, the City awarded this Agreement to the Contractor based upon Contractor’s Proposal.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the recitals set forth above agree as follows:

1 LINE OF AUTHORITY / COORDINATION AND LIAISON

The Chief Executive Officer of the Department of Aviation or their designee or successor in function (the “**CEO**”), authorizes and directs all work performed under this Agreement. Until otherwise notified in writing by the CEO, the CEO has delegated the authority granted herein to DEN Business Technologies. The relevant Senior Vice President (the “**SVP**”), or their designee (the “**Director**”), will designate a Project Manager to coordinate professional services under this Agreement. Reports, memoranda, correspondence, and other submittals required of Contractor hereunder shall be processed in accordance with the Project Manager’s directions.

2 DEFINITIONS

2.1 “**City Data**” means all information, data, and records, regardless of form, created by or in any way originating with the City and all information that is the output of any computer processing or other electronic manipulation including all records relating to the City’s use of the Work. City Data also includes Confidential Information and Protected Information, as defined in this Agreement.

- 2.2 “**Data**” or “**data**” means information, regardless of form, that can be read, transmitted, or processed.
- 2.3 “**Deliverable(s)**” means the outcome to be achieved or output to be provided, in the form of a tangible object or software that is produced as a result of the Contractor’s Work that is intended to be delivered to the City by the Contractor.
- 2.4 “**Effective Date**” means the date on which this Agreement is fully approved and signed by the City as shown on the City’s signature page.
- 2.5 “**Service(s)**” means the services to be performed by the Contractor as set forth in this Agreement and shall include any services to be rendered by the Contractor in connection with any goods or Deliverables.
- 2.6 “**Subcontractor**” means any third party engaged by the Contractor to aid in performance of the Work.
- 2.7 “**Work**” means the Deliverables provided and Services performed pursuant to this Agreement.
- 2.8 “**Work Product**” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Term that is used, without modification, in the performance of the Work.

3 HARDWARE, SOFTWARE, SOFTWARE AS A SERVICE, SUPPORT, AND SERVICES TO BE PERFORMED

As the City directs, the Contractor shall diligently undertake, perform, and complete the Work set forth on the attached *Exhibit A*, Scope of Work (“**SOW**”) to the City’s satisfaction. The City shall have no liability to compensate the Contractor for Work that is not specifically authorized by this Agreement. The Work shall be performed as stated herein and shall conform to the specification of the attached exhibits (collectively, “**Exhibits**”). The Parties acknowledge that they may further define the SOW in writing, and any alterations to the initial SOW shall become a part of this Agreement by incorporation. If any alteration to the initial or subsequent SOW materially alters the terms contained therein, the Parties agree to amend this Agreement in writing. The Contractor is ready, willing, and able to provide the technology related Work required by this Agreement. The Contractor shall faithfully perform the Work in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in this Agreement and in accordance with the terms of this Agreement.

4 ON-CALL SERVICES TO BE PERFORMED

The Contractor agrees to cooperate with the City in the preparation of detailed Task Orders in accordance with the Scope of Work, and the rates, contained therein, attached hereto as *Exhibit D*. Each Task Order shall include a detailed scope of Services, level of effort, schedule, rates, and payment schedule, including a “not to exceed” amount, specific to each the Task Order. Task Orders shall be construed to be in addition to, supplementary to, and consistent with the provisions of this Agreement. In the event of a conflict between a particular provision of any Task Order and a provision of this Agreement, this Agreement shall take precedence. A Task Order may be amended by the Parties by a written instrument prepared by the Parties jointly and signed by their authorized representatives. The City may execute Task Orders in its sole discretion, and the City is not required to execute any minimum number of Task Orders under this Agreement.

The City shall have no liability to compensate the Contractor for any Work not specifically set forth in this Agreement or a properly executed Task Order. In no event shall a Task Order term extend beyond the Term unless the City has specifically agreed in writing. If this Agreement is terminated for any reason, each Task Order hereunder shall also terminate unless the City has specifically directed otherwise in writing. The Contractor agrees to fully coordinate its provision of Services with any third party under contract with the City doing work or providing Services which affect the Contractor’s performance. The Contractor represents and warrants that all Services under a Task Order will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards; all Services and/or Deliverables will conform to applicable, agreed upon specifications, if any; and, it has the requisite ownership, rights and licenses to perform its obligations under this Agreement fully as contemplated hereby and to grant to the City all rights with respect to any software and Services free and clear from any and all liens, adverse claims, encumbrances and interests of any third party.

5 TERM

This Agreement will commence on April 1, 2025, and will expire March 31, 2028, unless sooner terminated, on (the “**Term**”). Subject to the City’s prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term will extend until the work is completed or earlier terminated by the City. The Term of this Agreement may be extended for two additional one-year periods, on the same terms and conditions, by written notice from the CEO to Contractor. However, no extension of the Term shall increase the Maximum Contract Liability stated below.

6 COMPENSATION AND PAYMENT

- 6.1 Budget.** The City shall pay, and the Contractor shall accept as the sole compensation for Work provided, and costs incurred and paid, under this Agreement payment not to exceed the line budget amounts set forth in *Exhibit B*. Payment shall be made in accordance with any agreed upon payment milestone set forth herein.
- 6.2 Fees.** The City shall pay, and the Contractor shall accept as the sole compensation for services rendered and costs incurred under this Agreement the fees described in

the attached *Exhibit B*. Amounts billed may not exceed rates set forth in *Exhibit B* and will be made in accordance with any agreed upon payment milestones.

6.3 Reimbursement Expenses. There are no reimbursable expenses allowed under this Agreement. All the Contractor's expenses are contained in the budget in *Exhibit B*. The City will not be obligated to pay the Contractor for any other fees, costs, expenses, or charges of any nature that may be incurred and paid by the Contractor in performing services under this Agreement including but not limited to personnel, benefits, contract labor, overhead, administrative costs, operating costs, supplies, equipment, and out-of-pocket expenses.

6.4 Invoicing. The Contractor must submit a monthly invoice which shall include the City contract number, clear identification of the Work that has been completed, and other information reasonably requested by the City. Payment on all uncontested amounts shall be made in accordance with the City's Prompt Payment Ordinance.

6.5 Payment Source. For payments required under this Agreement, the City shall make payments to Contractor solely from funds of the Airport System Fund and from no other fund or source. The City has no obligation to make payments from any other source.

6.6 Maximum Agreement Liability.

6.6.1 Notwithstanding any other provision of this Agreement, the City's maximum payment obligation will not exceed Ten Million Nine Hundred Twenty-One Thousand Five Hundred Sixteen Dollars and Zero Cents (**\$10,921,516.00**) (the "**Maximum Agreement 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 the attached Exhibits. Any services performed beyond those in the attached Exhibits are performed at the Contractor's risk and without authorization under this Agreement.

6.6.2 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 this Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. This Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

7 STATUS OF CONTRACTOR

The Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Contractor nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

8 TERMINATION

- 8.1** The City has the right to terminate this Agreement or a product under this Agreement with cause upon written notice effective immediately and without cause upon twenty (20) days prior written notice to the Contractor. However, nothing gives the Contractor the right to perform services under this Agreement beyond the time when its services become unsatisfactory to the City.
- 8.2** Notwithstanding the preceding paragraph, the City may terminate this Agreement if 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, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with the Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.
- 8.3** The City is entering into this Agreement to serve the public interest. If this Agreement ceases to further the City's public interest, the City, in its sole discretion, may terminate this Agreement, in whole or in part, for convenience by giving written notice to the Contractor.
- 8.4** Upon termination of this Agreement, with or without cause, the Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in this Agreement and shall refund to the City any prepaid cost or expenses.
- 8.5** If this Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools, and facilities it owns that are in the Contractor's possession, custody, or control by whatever method the City deems expedient. The Contractor shall deliver all documents in any form that were prepared under this Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Contractor shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE."

9 EXAMINATION OF RECORDS AND AUDITS

- 9.1** 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 the Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Contractor 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

three (3) years after the final payment under this 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 the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276.

- 9.2** 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 Contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. Contractor further agrees that such records will contain information concerning the hours and specific services performed along with the applicable federal project number.

10 WHEN RIGHTS AND REMEDIES NOT WAIVED

In no event shall any action by either Party hereunder constitute or be construed to be a waiver by the other Party of any breach of covenant or default which may then exist on the part of the Party alleged to be in breach, and the non-breaching Party’s action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available to that Party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

11 INSURANCE

- 11.1** Contractor shall obtain and keep in force all of the minimum insurance coverage forms and amounts set forth in *Exhibit C* (“**Insurance Requirements**”) during the entire Term of this Agreement, including any extensions of the Agreement or other extended period stipulations stated in *Exhibit C*. All certificates of insurance must be received and accepted by the City before any airport access or work commences. Contractor shall ensure and document that all subcontractors performing services or providing goods hereunder procure and maintain insurance coverage that is appropriate to the primary business risks for their respective scopes of performance. At minimum, such insurance must conform to all applicable requirements of DEN Rules and Regulations Part 230 and all other applicable laws and regulations.
- 11.2** Contractor shall ensure and document that all subcontractors performing services or providing goods hereunder procure and maintain insurance coverage that is appropriate to the primary business risks for their respective scopes of performance. At minimum, such insurance must conform to all applicable requirements of DEN Rules and Regulations Part 230 and all other applicable laws and regulations.

- 11.3** The City in no way warrants or represents the minimum limits contained herein are sufficient to protect Contractor from liabilities arising out of the performance of the terms and conditions of this Agreement by Contractor, its agents, representatives, employees, or subcontractors. Contractor shall assess its own risks and maintain higher limits and/or broader coverage as it deems appropriate and/or prudent. Contractor is not relieved of any liability or other obligations assumed or undertaken pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.
- 11.4** In no event shall the City be liable for any of the following: (i) business interruption or other consequential damages sustained by Contractor; (ii) damage, theft, or destruction of Contractor's inventory, or property of any kind; or (iii) damage, theft, or destruction of an automobile, whether or not insured.
- 11.5** The Parties understand and agree that the City, its elected and appointed officials, employees, agents and volunteers are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations and any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 to 120, or otherwise available to the City, its elected and appointed officials, employees, agents and volunteers.

12 DEFENSE AND INDEMNIFICATION

- 12.1** The 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 the 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.
- 12.2** The 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. the 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.
- 12.3** The 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.

- 12.4** 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.
- 12.5** The Contractor shall indemnify, save, and hold harmless the indemnified parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the indemnified parties in relation to any claim that any Deliverable or Service, software, or Work Product provided by the Contractor under this Agreement (collectively, "**IP Deliverables**"), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. The Contractor's obligations hereunder shall not extend to the combination of any IP Deliverables provided by the Contractor with any other product, system, or method, unless the other product, system, or method is (i) provided by the Contractor or the Contractor's subsidiaries or affiliates; (ii) specified by the Contractor to work with the IP Deliverables; (iii) reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or (iv) is reasonably expected to be used in combination with the IP Deliverables.
- 12.6** The Contractor shall indemnify, save, and hold harmless the indemnified parties against all costs, expenses, claims, damages, liabilities, court awards and other amounts, including attorneys' fees and related costs, incurred by the indemnified parties in relation to the Contractor's failure to comply with §§ 24-85-101, *et seq.*, C.R.S., or the *Accessibility Standards for Individuals with a Disability* as established pursuant to § 24-85-103 (2.5), C.R.S.
- 12.7** This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

13 COLORADO GOVERNMENTAL IMMUNITY ACT

The Parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, *et seq.*, C.R.S. (2003).

14 COMPLIANCE WITH APPLICABLE LAWS AND CITY POLICIES

The Contractor shall comply with all applicable existing and future laws and DEN Rules and Regulations and policies in performing the Services under this Agreement. Any of the Contractor's personnel visiting the City's facilities will comply with all applicable City policies regarding access to, use of, and conduct within such facilities. The City will provide copies of such policies to the Contractor upon request.

15 TECHNOLOGY SPECIFICATIONS

- 15.1 Vendor Supported Releases.** The Contractor shall maintain the currency of all third-party software used in the development and execution or use of the Work with third-party vendor approved and supported releases, including, but not limited to, all code libraries, frameworks, components, and other products (by way of example, but not limitation: Java JRE, code signing certificates, .NET, jQuery plugins, etc.), whether commercial, free, open-source, or closed-source.
- 15.2 Additional Products or Services.** The Parties acknowledge that the Contractor will continue to enhance and/or modify its existing products or services. To use those enhanced products or services, the City shall be entitled to order those offerings at any time throughout the duration of this Agreement provided the pricing is set out in this Agreement. Once agreed upon by the Parties, additional products or services shall be subject to the same terms and conditions as contained herein and any order placed by the City shall not create any additional binding conditions on the City and shall not act as an amendment of the terms and conditions of this Agreement. If additional products or services are requested by the City, the Parties shall follow the agreed upon order process and if no process is outlined, then the SVP, or other designated DEN personnel, shall be authorized to sign any necessary forms to acquire the products/services on behalf of the City. Additional licenses shall be prorated and co-termed with current licensing contained in this Agreement.
- 15.3 Reoccurring Security Audits.** Prior to the Effective Date of this Agreement, the Contractor, will at its expense conduct or have conducted the following, and thereafter, the Contractor will at its expense conduct or have conducted the following at least once per year, and immediately after any actual or reasonably suspected Security Breach: (i) a SSAE 16/SOC 2 or other mutually agreed upon audit of the Contractor's security policies, procedures and controls; (ii) a quarterly external and internal vulnerability scan of the Contractor's systems and facilities, to include public facing websites, that are used in any way to deliver Services under this Agreement. The report must include the vulnerability, age, and remediation plan for all issues identified as critical or high; and (iii) a formal penetration test performed by qualified personnel of the Contractor's systems and facilities that are used in any way to deliver Work under this Agreement. The Contractor will provide the City the reports or other documentation resulting from the above audits, certifications, scans, and tests within seven (7) business days of the Contractor's receipt of such results. The report must include the vulnerability, age, and remediation plan for all issues identified as critical or high. Based on the results and recommendations of the above audits, the Contractor will, within thirty (30) calendar days of receipt of such results, promptly modify its security measures to meet its obligations under this Agreement and provide the City with written evidence of remediation. In addition, the Contractor shall comply with the City's annual risk assessment and the results thereof. The City may require, at the Contractor's expense, that the Contractor perform additional audits and tests, the

results of which will be provided to the City within seven (7) business days of Contractor's receipt of such results. The Contractor will provide the City the results of the above audits. If additional funds are required to perform the tests required by the City that are not accounted for in this Agreement, the Parties agree to amend this Agreement as necessary. The Contractor shall also protect data against deterioration or degradation of quality and authenticity by, at minimum, having a third party perform annual data integrity audits. Notwithstanding the foregoing, any audit of Contractor's information security or IT systems will be conducted only by an independent third party mutually agreed upon by the City and Contractor.

15.4 Transition of Services. Upon expiration or earlier termination of this Agreement or any Work provided hereunder, the Contractor shall accomplish a complete transition of the Services from the Contractor to the City or any replacement provider designated solely by the City without any interruption of or adverse impact on the Services or any other services provided by third parties under this Agreement. The Contractor shall cooperate fully with the City or such replacement provider and promptly take all steps required to assist in effecting a complete transition of the Services designated by the City. All Services related to such transition shall be performed at no additional to the City. The Contractor shall extend this Agreement monthly if additional time is required beyond the termination of this Agreement, if necessary, to effectuate the transition and the City shall pay a proration of the subscription fee.

15.5 Disaster Recovery and Continuity.

15.5.1 The Contractor shall maintain a continuous and uninterrupted business continuity and disaster recovery program with respect to the Work provided under this Agreement. The program shall be designed, in the event of a significant business disruption affecting the Contractor, to provide the necessary and sufficient capabilities, processes, and procedures to enable the Contractor to resume and continue to perform its duties and obligations under this Agreement without undue delay or disruption. In the event of equipment failures, the Contractor shall, at no additional expense to the City, take reasonable steps to minimize service interruptions, including using any back-up facilities where appropriate. Upon request, the Contractor shall provide the City with a copy of its disaster recovery plan and procedures.

15.5.2 Prior to the Effective Date of this Agreement, the Contractor shall, at its own expense, conduct or have conducted the following, and thereafter, the Contractor will, at its own expense, conduct or have conducted the following at least once per year:

15.5.2.1 A test of the operability, sufficiency, and completeness of business continuity and disaster recovery program's capabilities, processes, and procedures that are necessary to resume and continue to perform its duties and obligations under this

Agreement.

15.5.2.2 Based upon the results and subsequent recommendations of the testing above, the Contractor will, within thirty (30) calendar days of receipt of such results and recommendations, promptly modify its capabilities, processes, and procedures to meet its obligations under this Agreement and provide City with written evidence of remediation.

15.5.2.3 Upon request, the Contractor shall provide the City with report summaries or other documentation resulting from above testing of any business continuity and disaster recovery procedures regarding the Services provided under this Agreement.

15.5.2.4 The Contractor represents that it is capable, willing, and able to provide the necessary and sufficient business continuity and disaster recovery capabilities and functions that are appropriate for it to provide services under this Agreement.

16 DELIVERY AND ACCEPTANCE

16.1 Acceptance & Rejection. Software, technology services, or other deliverables created and/or delivered pursuant to this Agreement (collectively, “**Deliverables**”) will be considered accepted (“**Acceptance**”) only when the City provides the Contractor affirmative written notice of acceptance that such Deliverable has been accepted by the City. Such communication shall be provided within a reasonable time from the delivery of the Deliverable and shall not be unreasonably delayed or withheld. Acceptance by the City shall be final, except in cases of Contractor’s failure to conduct proper quality assurance, latent defects that could not reasonably have been detected upon delivery, or the Contractor’s gross negligence or willful misconduct. The City may reject a Deliverable if it materially deviates from its specifications and requirements listed in this Agreement or its attachments by written notice setting forth the nature of such deviation. In the event of such rejection, the Contractor shall correct the deviation, at its sole expense, and redeliver the Deliverable within fifteen (15) days. After redelivery, the Parties shall again follow the acceptance procedures set forth herein. If any Deliverable does not perform to the City’s satisfaction, the City reserves the right to repudiate acceptance. If the City ultimately rejects a Deliverable, or repudiates acceptance of it, the Contractor will refund to the City all fees paid, if any, by the City with respect to any rejected Deliverable. Acceptance shall not relieve the Contractor from its responsibility under any representation or warranty contained in this Agreement, and payment of an invoice prior to Acceptance does not grant a waiver of any representation or warranty made by the Contractor.

16.2 Quality Assurance. The Contractor shall provide and maintain a quality assurance system acceptable to the City for Deliverables under this Agreement and shall provide to the City only such Deliverables that have been inspected and found to conform to the specifications identified in this Agreement and any applicable

solicitation, bid, offer, or proposal from which this Agreement results. The Contractor's delivery of any Deliverables to the City shall constitute certification that any Deliverables have been determined to conform to the applicable specifications, and the Contractor shall make records of such quality assurance available to the City upon request.

16.3 Contractor Property and License to Deliverables. The City acknowledges Contractor's ownership of any intellectual property right whatsoever or any interest therein that has been invented, created, developed or acquired by Contractor before the commencement of Contractor's services to the City under this Agreement ("Contractor Property"). Contractor retains all right and title in and to the Contractor Property provided to the City or used by Contractor in performing services for the City under this Agreement, and Contractor shall not be limited in any way from using such Contractor Property in any way, including its use in other engagements with Contractor's other clients. Effective upon Acceptance of each Deliverable, the Contractor grants the City a nonexclusive, non-transferable, royalty-free license to reproduce, modify, display, and use such Deliverable, and all intellectual property rights necessary to use the Deliverable as authorized, as necessary for the City's internal business purposes, in connection with this Agreement, provided the City complies with any license restrictions set forth in this Agreement and any attachments thereto. The City will not reverse engineer or reverse compile any part of a Deliverable unless agreed by the Parties in writing.

16.4 Incorporation of Deliverables. Upon Acceptance, each Deliverable will thereafter be subject to this Agreement's terms, including without limitation license, warranty, and indemnity terms.

17 WARRANTIES AND REPRESENTATIONS

17.1 Notwithstanding the acceptance of any Work or Deliverable, or the payment of any invoice for such Work or Deliverable, the Contractor warrants that any Work or Deliverable provided by the Contractor under this Agreement shall be free from material defects and shall function as intended and in material accordance with the applicable specifications. The Contractor warrants that any Work or Deliverable, and any media used to distribute it, shall be, at the time of delivery, free from any harmful or malicious code, including without limitation viruses, malware, spyware, ransomware, or other similar function or technological means designed to disrupt, interfere with, or damage the normal operation of the Work or Deliverable and the use of City resources and systems. The Contractor's warranties under this Section shall apply to any defects or material nonconformities discovered within 180 days following delivery of any Work or Deliverable.

17.2 Upon notice of any defect or material nonconformity, the Contractor shall submit to the City in writing within 10 business days of the notice one or more recommendations for corrective action with sufficient documentation for the City to ascertain the feasibility, risks, and impacts of each recommendation. The City's remedy for such defect or material non-conformity shall be:

- 17.2.1** The Contractor shall re-perform, repair, or replace such Work or Deliverable in accordance with any recommendation chosen by the City. The Contractor shall deliver, at no additional cost to the City, all documentation required under this Agreement as applicable to the corrected Work or Deliverable; or
- 17.2.2** The Contractor shall refund to the City all amounts paid for such Work or Deliverable, as well as pay to the City any additional amounts reasonably necessary for the City to procure alternative goods or services of substantially equivalent capability, function, and performance.
- 17.3** Any Work or Deliverable delivered to the City as a remedy under this Section shall be subject to the same quality assurance, acceptance, and warranty requirements as the original Work or Deliverable. The duration of the warranty for any replacement or corrected Work or Deliverable shall run from the date of the corrected or replacement Work or Deliverable.
- 17.4 Customization Services.** The Contractor warrants that it will perform all customization services, if any, in a professional and workmanlike manner. In case of breach of the warranty of the preceding sentence, the Contractor, at its own expense, shall promptly re-perform the customization services in question or provide a full refund for all nonconforming customization services.
- 17.5 Third-Party Warranties and Indemnities.** The Contractor will assign to the City all third-party warranties and indemnities that the Contractor receives in connection with any Work or Deliverables provided to the City. To the extent that the Contractor is not permitted to assign any warranties or indemnities through to the City, the Contractor agrees to specifically identify and enforce those warranties and indemnities on behalf of the City to the extent the Contractor is permitted to do so under the terms of the applicable third-party agreements.
- 17.6 Intellectual Property Rights in the Software.** The Contractor warrants that it is the owner of all Deliverables, and of each and every component thereof, or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant the intellectual property rights to the Deliverables in this Agreement without the further consent of any third party and without conditions or requirements not set forth in this Agreement. In the event of a breach of the warranty in this Section, the Contractor, at its own expense, shall promptly take the following actions: (i) secure for the City the right to continue using the Deliverable as intended; (ii) replace or modify the Deliverable to make it non-infringing, provided such modification or replacement will not materially degrade any functionality as stated in this Agreement; or (iii) refund 100% of the fee paid for the Deliverable for every month remaining in the Term, in which case the Contractor may terminate any or all of the City's licenses to the infringing Deliverable granted in this Agreement and require return or destruction of copies thereof. The Contractor also warrants that there are no pending or threatened lawsuits, claims, disputes, or actions: (i) alleging that any of the Work or

Deliverables infringes, violates, or misappropriates any third-party rights; or (ii) adversely affecting any Deliverables or Services, or the Contractor's ability to perform its obligations hereunder.

17.7 Disabling Code. The Work and any Deliverables will contain no malicious or disabling code that is intended to damage, destroy, or destructively alter software, hardware, systems, or data. The Contractor represents, warrants and agrees that the City will not receive from the Contractor any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design, or other malicious, illicit or similar unrequested code, including surveillance software or routines which may, or is designed to, permit access by any person, or on its own, to erase, or otherwise harm or modify any City system, resources, or data (a "**Disabling Code**"). In the event a Disabling Code is identified, the Contractor shall take all steps necessary, at no additional cost to the City, to: (i) restore and/or reconstruct all data lost by the City as a result of a Disabling Code; (ii) furnish to City a corrected version of the Work or Deliverables without the presence of a Disabling Code; and, (iii) as needed, re-implement the Work or Deliverable at no additional cost to the City. This warranty shall remain in full force and effect during the Term.

18 ACCESSIBILITY AND ADA WEBSITE COMPLIANCE

18.1 Compliance. The Contractor shall comply with, and the Work and Work Product provided under this Agreement shall be in compliance with, all applicable provisions of §§ 24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established pursuant to Section § 24-85-103 (2.5), C.R.S (collectively, the "**Guidelines**"). The Contractor shall also comply with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

18.2 Testing. The City may require the Contractor's compliance to be determined by a third party selected by the City to attest that the Contractor's has performed all obligations under this Agreement in compliance with §§ 24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established pursuant to Section § 24-85-103 (2.5), C.R.S.

18.3 Validation and Remediation. The Contractor agrees to promptly respond to and resolve any instance of noncompliance regarding accessibility in a timely manner and shall remedy any noncompliant Work Product, Service, or Deliverable at no additional cost to the City. If the City reasonably determines accessibility issues exist, the Contractor shall provide a "roadmap" for remedying those deficiencies on a reasonable timeline to be approved by the City. Resolution of reported accessibility issue(s) that may arise shall be addressed as high priority, and failure to make satisfactory progress towards compliance with the Guidelines, as agreed to in the roadmap, shall constitute a breach of contract and be grounds for termination or non-renewal of this Agreement.

19 CONFIDENTIAL INFORMATION

- 19.1** “Confidential Information” means all information or data, regardless of form, not subject to disclosure under the Colorado Open Records Act, § 24-72-201, *et seq.*, C.R.S. (“**CORA**”), and is marked or identified at the time of disclosure as being confidential, proprietary, or its equivalent. Each of the Parties may disclose (a “**Disclosing Party**”) or permit the other Party (the “**Receiving Party**”) access to the Disclosing Party’s Confidential Information in accordance with the following terms. Except as specifically permitted in this Agreement or with the prior express written permission of the Disclosing Party, the Receiving Party shall not: (i) disclose, allow access to, transmit, transfer or otherwise make available any Confidential Information of the Disclosing Party to any third party other than its employees, Subcontractors, agents and consultants that need to know such information to fulfil the purposes of this Agreement, and in the case of non-employees, with whom it has executed a non-disclosure or other agreement which limits the use, reproduction and disclosure of the Confidential Information on terms that afford at least as much protection to the Confidential Information as the provisions of this Agreement; or (ii) use or reproduce the Confidential Information of the Disclosing Party for any reason other than as reasonably necessary to fulfil the purposes of this Agreement. This Agreement does not transfer ownership of Confidential Information or grant a license thereto. The City will retain all right, title, and interest in its Confidential Information.
- 19.2** The Contractor shall provide for the security of Confidential Information and information which may not be marked but constitutes personally identifiable information or other federally or state regulated information (“**Regulated Data**”) in accordance with all applicable laws, rules, policies, publications, and guidelines. If the Contractor receives Regulated Data outside the scope of this Agreement, it shall promptly notify the City.
- 19.3** Disclosed information or data that the Receiving Party can establish: (i) was lawfully in the Receiving Party’s possession before receipt from the Disclosing Party; or (ii) is or becomes a matter of public knowledge through no fault of the Receiving Party; or (iii) was independently developed or discovered by the Receiving Party; or (iv) was received from a third party that was not under an obligation of confidentiality, shall not be considered Confidential Information under this Agreement. The Receiving Party will inform necessary employees, officials, Subcontractors, agents, and officers of the confidentiality obligations under this Agreement, and all requirements and obligations of the Receiving Party under this Agreement shall survive the expiration or earlier termination of this Agreement.
- 19.4** Nothing in this Agreement shall in any way limit the ability of the City to comply with any laws or legal process concerning disclosures by public entities. The Parties understand that all materials exchanged under this Agreement, including Confidential Information, may be subject to CORA. In the event of a request to the City for disclosure of possible confidential materials, the City shall advise the Contractor of such request to give the Contractor the opportunity to object to the disclosure of any of its materials which it marked as, or otherwise asserts is,

proprietary or confidential. If the Contractor objects to disclosure of any of its material, the Contractor shall identify to the City the legal basis under CORA for any right to withhold. In the event of any action or the filing of a lawsuit to compel disclosure, the Contractor agrees to intervene in such action or lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. If the matter is not resolved, the City will tender all material to the court for judicial determination of the issue of disclosure. The Contractor further 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 to protect and assert its claim of privilege against disclosure under this Section, 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.

20 SENSITIVE SECURITY INFORMATION

Contractor acknowledges that, in the course of performing its work under this Agreement, Contractor may be given access to Sensitive Security Information (“**SSI**”), as material is described in the Code of Federal Regulations, 49 C.F.R. Part 1520. Contractor specifically agrees to comply with all requirements of the applicable federal regulations, including but not limited to, 49 C.F.R. Parts 15 and 1520. Contractor understands any questions it may have regarding its obligations with respect to SSI must be referred to DEN's Security Office.

21 DATA MANAGEMENT, SECURITY, AND PROTECTION

21.1 Compliance with Data Protection Laws and Policies. The Contractor shall comply with all applicable federal, state, local laws, rules, regulations, directives, and policies relating to data protection, use, collection, disclosures, processing, and privacy as they apply to the Contractor under this Agreement, including, without limitation, applicable industry standards or guidelines based on the data's classification relevant to the Contractor's performance hereunder and, *when applicable*, the most recent iterations of § 24-73-101, *et seq.*; C.R.S., IRS Publication 1075; the Colorado Consumer Protection Act, the Payment Card Industry Data Security Standard (“**PCI- DSS**”), and the Minimum Acceptable Risk Standards for Exchanges (collectively, “**Data Protection Laws**”). If the Contractor becomes aware that it cannot reasonably comply with the terms or conditions contained herein due to a conflicting law or policy, the Contractor shall promptly notify the City. The Contractor shall comply with all rules, policies, procedures, and standards issued by Denver International Airport and the DEN Business Technology section.

21.2 Safeguarding Protected and Sensitive Information. “Protected Information” means data, regardless of form, that has been designated as sensitive, private, proprietary, protected, or confidential by law, policy, or the City. Protected Information includes, but is not limited to, employment records, protected health information, student and education records, criminal justice information, personal financial records, research data, trade secrets, classified government information, other regulated data, and personally identifiable information as defined by §§ 24-73-101(4)(b) and 6-1-716(1)(g)(I)(A), C.R.S., as amended. Protected Information

shall not include public records that by law must be made available to the public under CORA. To the extent there is any uncertainty as to whether data constitutes Protected Information, the data in question shall be treated as Protected Information until a determination is made by the City or an appropriate legal authority. Unless the City provides security protection for the information it discloses to the Contractor, the Contractor shall implement and maintain reasonable security procedures and practices that are both appropriate to the nature of the Protected Information disclosed and that are reasonably designed to help safeguard Protected Information from unauthorized access, use, modification, disclosure, or destruction. Disclosure of Protected Information does not include disclosure to a third party under circumstances where the City retains primary responsibility for implementing and maintaining reasonable security procedures and practices appropriate to the nature of the Protected Information, and the City implements and maintains technical controls reasonably designed to safeguard Protected Information from unauthorized access, modification, disclosure, or destruction or effectively eliminate the third party's ability to access Protected Information, notwithstanding the third party's physical possession of Protected Information. If the Contractor has been contracted to maintain, store, or process personal information on the City's behalf, the Contractor is a "Third-Party Service Provider" as defined by § 24-73-103(1)(i), C.R.S.

21.3 Data Access and Integrity. The Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the Data Protection Laws applicable to the Contractor's performance hereunder to ensure the security and confidentiality of data. The Contractor shall protect against threats or hazards to the security or integrity of data; protect against unauthorized disclosure, access to, or use of data; restrict access to data as necessary; and ensure the proper and legal use of data. The Contractor shall not engage in "data mining" except as specifically and expressly required by law or authorized in writing by the City. Unless otherwise required by law, the City has exclusive ownership of all City Data under this Agreement, and the Contractor shall have no right, title, or interest in City Data obtained in connection with the services provided herein. The Contractor has a limited, nonexclusive license to access and use data as provided in this Agreement solely for the purpose of performing its obligations hereunder. The City retains the right to access and retrieve City Data stored on the Contractor's infrastructure at any time during the Term. All City Data created and/or processed by the Work, if any, is and shall remain the property of the City and shall in no way become attached to the Work, nor shall the Contractor have any rights in or to the City Data without the express written permission of the City. This Agreement does not give a Party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in this Agreement. The City retains the right to use the Work to access and retrieve data stored on the Contractor's infrastructure at any time during the Term. Upon written request, the Contractor shall provide the City its policies and procedures to maintain the confidentiality of City Data and Protected Information.

- 21.4 Response to Legal Orders for City Data.** If the Contractor is required by a court of competent jurisdiction or administrative body to disclose City Data, the Contractor shall first notify the City and, prior to any disclosure, cooperate with the City's reasonable requests in connection with the City's right to intervene, quash, or modify the legal order, demand, or request, and upon request, provide the City with a copy of its response. If the City receives a subpoena, legal order, or other legal demand seeking data maintained by the Contractor, the City will promptly provide a copy to the Contractor. Upon notice and if required by law, the Contractor shall promptly provide the City with copies of its data required for the City to meet its necessary disclosure obligations.
- 21.5 Data Retention, Transfer, Litigation Holds, and Destruction.** Using appropriate and reliable storage media, the Contractor shall regularly backup data used in connection with this Agreement and retain such backup copies consistent with the City's data and record retention policies. All City Data shall be encrypted in transmission, including by web interface, and in storage by an agreed upon National Institute of Standards and Technology ("NIST") approved strong encryption method and standard. The Contractor shall not transfer or maintain data under this Agreement outside of the United States without the City's express written permission. Upon termination of this Agreement, the Contractor shall securely delete or securely transfer all data, including Protected Information, to the City in an industry standard format as directed by the City; however, this requirement shall not apply to the extent the Contractor is required by law to retain data, including Protected Information. Upon the City's request, the Contractor shall confirm, by providing a certificate, the data disposed of, the date disposed of, and the method of disposal. With respect to any data in the Contractor's exclusive custody, the City may request, at no additional cost to the City, that the Contractor preserve such data outside of record retention policies. The City will promptly coordinate with the Contractor regarding the preservation and disposition of any data and records relevant to any current or anticipated litigation, and the Contractor shall continue to preserve the records until further notice by the City. Unless otherwise required by law or regulation, when paper or electronic documents are no longer needed, the Contractor shall destroy or arrange for the destruction of such documents within its custody or control that contain Protected Information by shredding, erasing, or otherwise modifying the Protected Information in the paper or electronic documents to make it unreadable or indecipherable. The Contractor and its third-party services providers must develop and maintain a written policy for the destruction of such records.
- 21.6 Software and Computing Systems.** At its reasonable discretion, the City may prohibit the Contractor from the use of certain software programs, databases, and computing systems with known vulnerabilities to collect, use, process, store, or generate data and information received under this Agreement. The Contractor shall fully comply with all requirements and conditions, if any, associated with the use of software programs, databases, and computing systems as reasonably directed by the City. The Contractor shall not use funds paid by the City for the acquisition,

operation, or maintenance of software in violation of any copyright laws or licensing restrictions. The Contractor shall maintain commercially reasonable network security that, at a minimum, includes network firewalls, intrusion detection/prevention, and enhancements or updates consistent with evolving industry standards. The Contractor shall use industry-standard and up-to-date security tools, technologies and procedures including, but not limited to, anti-virus and anti-malware protections. The Contractor shall ensure that any underlying or integrated software employed under this Agreement is updated on a regular basis and does not pose a security threat.

21.7 Background Checks. The Contractor shall ensure that, prior to being granted access to Protected Information, the Contractor's agents, employees, Subcontractors, volunteers, or assigns who perform work under this Agreement have all undergone and passed all necessary criminal background screenings, have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement and Data Protection Laws, and possess all qualifications appropriate to the nature of the employees' duties and the sensitivity of the data. If the Contractor will have access to federal tax information ("FTI") under this Agreement, the Contractor shall comply with the background check and other provisions of Section 6103(b) of the Internal Revenue Code, the requirements of IRS Publication 1075, and the Privacy Act of 1974, 5 U.S.C. § 552a, *et. seq.*, related to federal tax information.

21.8 Subcontractors and Employees. If the Contractor engages a Subcontractor under this Agreement, the Contractor shall impose data protection terms that provide at least the same level of data protection as in this Agreement and to the extent appropriate to the nature of the Work provided. The Contractor shall monitor the compliance with such obligations and remain responsible for its Subcontractor's compliance with the obligations of this Agreement and for any of its Subcontractors acts or omissions that cause the Contractor to breach any of its obligations under this Agreement. Unless the Contractor provides its own security protection for the information it discloses to a third party, the Contractor shall require the third party to implement and maintain reasonable security procedures and practices that are appropriate to the nature of the Protected Information disclosed and that are reasonably designed to protect it from unauthorized access, use, modification, disclosure, or destruction. Any term or condition within this Agreement relating to the protection and confidentiality of any disclosed data shall apply equally to both the Contractor and any of its Subcontractors, agents, assigns, employees, or volunteers. Upon request, the Contractor shall provide the City copies of its record retention, data privacy, and information security policies. The Contractor shall ensure all Subcontractors sign, or have signed, agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force so long as the Subcontractor has access to any data disclosed under this Agreement. Upon request, the Contractor shall provide copies of those signed nondisclosure agreements to the City.

21.9 Security Audit Access. The Contractor shall permit the City reasonable access and shall provide the City with information reasonably required to assess the Contractor's compliance with its security and confidentiality obligations under this Agreement. Such access and information shall include an annual SSAE 16/SOC 2 audit, or an alternative audit recommended by the City, and the Contractor shall comply with the City's annual risk assessment and the results thereof. To the extent the Contractor controls or maintains information systems used in connection with this Agreement, the Contractor shall provide the City with the results of all security assessment activities when conducted on such information systems, including any code-level vulnerability scans, application-level risk assessments, and other security assessment activities as required by this Agreement or reasonably requested by the City. The Contractor will remediate any vulnerabilities to comply with its obligations hereunder. Notwithstanding the foregoing, any audit of Contractor's information security or IT systems will be conducted only by an independent third party mutually agreed upon by the City and Contractor.

21.10 Unauthorized Data Disclosure.

21.10.1 Security Breach. If the Contractor becomes aware of a suspected or unauthorized acquisition or disclosure of unencrypted data, in any form, that compromises the security, access, confidentiality, or integrity of City Data, Protected Information, or other data maintained or provided by the City ("**Security Breach**"), the Contractor shall notify the City in the most expedient time and without unreasonable delay but no less than forty-eight (48) hours. A Security Breach shall also include, without limitation, (i) attempts to gain unauthorized access to a City system or City Data regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a City system for the processing or storage of data; or (iv) changes to the City's system hardware, firmware, or software characteristics without the City's knowledge, instruction, or consent. Any oral notice of a Security Breach provided by the Contractor shall be immediately followed by a written notice to the City. The Contractor shall maintain documented policies and procedures for Security Breaches including reporting, notification, and mitigation.

21.10.2 Cooperation. The Contractor shall fully cooperate with the City regarding recovery, lawful notices, investigations, remediation, and the necessity to involve law enforcement, as determined by the City and as required by law. The Contractor shall preserve and provide all information relevant to the Security Breach to the City; provided, however, the Contractor shall not be obligated to disclose confidential business information or trade secrets. Unless the Contractor can establish that neither it nor any of its agents, employees, assigns, or Subcontractors are the cause or source of the Security Breach, the Contractor shall indemnify, defend, and hold harmless the City for all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be

suffered by, accrued against, charged to, or recoverable from the City in connection with a Security Breach and any required lawful notices.

21.10.3 Reporting. The Contractor shall provide a written report to the City that identifies: (i) the nature of the unauthorized use or disclosure; (ii) the data used or disclosed; (iii) the parties responsible for the Security Breach (if known); (iv) what the Contractor has done or shall do to mitigate the effect of the Security Breach; and (v) what corrective action the Contractor has taken or shall take to prevent future Security Breaches. Except as expressly required by law, the Contractor will not disclose or otherwise provide notice of the incident directly to any person, regulatory agencies, or other entities, without prior written permission from the City.

21.10.4 Costs. Notwithstanding any other provision of this Agreement, and in addition to any other remedies available to the City under law or equity, the Contractor will promptly reimburse the City in full for all costs incurred by the City in any investigation, remediation or litigation resulting from any Security Breach, including but not limited to providing notification to third parties whose data was compromised and to regulatory bodies, law-enforcement agencies, or other entities as required by law or contract; establishing and monitoring call center(s), and credit monitoring and/or identity restoration services to assist each person impacted by a Security Breach in such a fashion that, in the City's sole discretion, could lead to identity theft; and the payment of legal fees and expenses, audit costs, fines and penalties, and other fees imposed by regulatory agencies, courts of law, or contracting partners as a result of the Security Breach.

21.10.5 Remediation. After a Security Breach, the Contractor shall take steps to reduce the risk of incurring a similar type of Security Breach in the future as directed by the City, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the City at no additional cost to the City. The City may adjust or direct modifications to this plan, and the Contractor shall make all reasonable modifications as directed by the City. The City may, in its sole discretion and at the Contractor's sole expense, require the Contractor to engage the services of an independent, qualified, City-approved third party to conduct a security audit. The Contractor shall provide the City with the results of such audit and evidence of the Contractor's planned remediation in response to any negative findings. Implementation of corrective actions to remedy the Security Breach and restore the City's access to the Work shall occur within five (5) calendar days of the date the Contractor becomes aware of any Security Breach.

21.11 Request for Additional Protections and Survival. In addition to the terms contained herein, the City may reasonably request that the Contractor protect the

confidentiality of certain Protected Information or other data in specific ways to ensure compliance with Data Protection Laws and any changes thereto. Unless a request for additional protections is mandated by a change in law, the Contractor may reasonably decline the City's request to provide additional protections. If such a request requires the Contractor to take steps beyond those contained herein, the Contractor shall notify the City with the anticipated cost of compliance, and the City may thereafter, in its sole discretion, direct the Contractor to comply with the request at the City's expense; provided, however, that any increase in costs that would increase the Maximum Contract Amount must first be memorialized in a written amendment complying with City procedures. Obligations contained in this Agreement relating to the protection and confidentiality of any disclosed data shall survive termination of this Agreement, and the Contractor shall continue to safeguard all data for so long as the data remains confidential or protected and in the Contractor's possession or control.

22 DEN SECURITY

- 22.1** Contractor, its officers, authorized officials, employees, agents, subcontractors, and those under its control, shall comply with safety, operational, or security measures required of Contractor or the City by the FAA or TSA. If Contractor, its officers, authorized officials, employees, agents, subcontractors or those under its control, fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against the City, then, in addition to any other remedies available to the City, Contractor shall fully reimburse the City any fines or penalties levied against the City, and any attorney fees or related costs paid by the City as a result of any such violation. Contractor must pay this amount within fifteen (15) days from the date of the invoice or written notice. Any fines and fees assessed by the FAA or TSA against the City due to the actions of Contractor and/or its agents will be deducted directly from the invoice for that billing period.
- 22.2** Contractor is responsible for compliance with Airport Security regulations and 49 C.F.R. Parts 1542 (Airport Security) and 14 C.F.R. Parts 139 (Airport Certification and Operations). Any and all violations pertaining to Parts 1542 and 139 resulting in a fine will be passed on to and borne by Contractor. The fee/fine will be deducted from the invoice at time of billing.

23 FEDERAL RIGHTS

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes and the expenditure of federal funds for the extension, expansion or development of the Airport System. As applicable, Contractor shall comply with the Standard Federal Assurances identified in the attached Appendix: Standard Federal Assurances.

24 TAXES, CHARGES AND PENALTIES

The City shall not be liable for the payment of taxes, late charges, or penalties of any nature other than the compensation stated herein, except for any additional amounts which the City may be required to pay under D.R.M.C. § 20-107 to § 20-115.

25 ASSIGNMENT; SUBCONTRACTING

The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the City's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void and shall be cause for termination of this Agreement by the City. The City has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate this Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any subconsultant, Subcontractor, or assign.

26 NO THIRD-PARTY BENEFICIARY

Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in this Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Contractor receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

27 NO AUTHORITY TO BIND CITY TO CONTRACTS

The Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

28 AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS

Except for the functional requirements provided in response to a request for proposal and/or any subsequent enhancement of the SOW or other implementation documentation that may be developed after execution of this Agreement, this Agreement is the complete integration of all understandings between the Parties as to the subject matter of this Agreement. No prior, contemporaneous, or subsequent addition, deletion, or other modification has any force or effect, unless embodied in this Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of this Agreement or any written amendment to this Agreement will have any force or effect or bind the City.

29 COMPLIANCE WITH DENVER WAGE LAWS

To the extent applicable to the Contractor's provision of Services hereunder, the Contractor shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and

City determinations regarding the City’s Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Contractor expressly acknowledges that the Contractor is aware of the requirements of the City’s Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

30 PAYMENT OF PREVAILING WAGE

To the extent required by law, Contractor shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, D.R.M.C. §§ 20-76 through 20-79, including, but not limited to, the requirement that every covered worker working on a City owned or leased building or on City-owned land shall be paid no less than the prevailing wages and fringe benefits in effect on the date the bid or request for proposal was advertised. In the event a request for bids, or a request for proposal, was not advertised, Contractor shall pay every covered worker no less than the prevailing wages and fringe benefits in effect on the date funds for the Agreement were encumbered.

Date bid or proposal issuance was advertised: July 19, 2024

- 30.1.1** Prevailing wage and fringe rates will adjust on, and only on, the actual date of bid or proposal issuance, if applicable, or the date of the written encumbrance if no bid/proposal issuance date is applicable.
- 30.1.2** Contractor shall provide the Auditor with a list of all subcontractors providing any services under the Agreement.
- 30.1.3** Contractor shall provide the Auditor with electronically-certified payroll records for all covered workers employed under this Agreement.
- 30.1.4** Contractor shall prominently post at the work site the current prevailing wage and fringe benefit rates. The posting must inform workers that any complaints regarding the payment of prevailing wages or fringe benefits may be submitted to the Denver Auditor by calling 720-913-5000 or emailing auditor@denvergov.org.
- 30.1.5** If Contractor fails to pay workers as required by the Prevailing Wage Ordinance, Contractor will not be paid until documentation of payment satisfactory to the Auditor has been provided. The City may, by written notice, suspend or terminate work if Contractor fails to pay required wages and fringe benefits.

31 SEVERABILITY

Except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of this Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

32 CONFLICT OF INTEREST

No employee of the City shall have any personal or beneficial interest in the services or property described in this Agreement. The Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. § 2-51, *et seq.* or the Charter §§ 1.2.8, 1.2.9, and 1.2.12. The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. The Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor's own interests, or the interests of any party with whom the Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate this Agreement in the event it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

33 NOTICES

All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, electronic mail, or mailed via United States mail, postage prepaid, if to the Contractor at the aforementioned address, and if to the City at:

Chief Executive Officer
Denver International Airport
8500 Pena Blvd., 9th Floor
Denver, CO 80249

With a copy to:

Denver City Attorney's Office
DEN Legal
8500 Pena Blvd., 9th Floor
Denver, CO 80249

Notices hand delivered, sent by overnight courier, or electronic mail are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate electronic and substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

34 DISPUTES

All disputes arising under or related to this Agreement shall be resolved by administrative hearing under the procedures described in D.R.M.C. § 5-17 and all related rules and procedures. The determination resulting from said administrative hearing shall be final, subject only to the right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106. In the event of a dispute between the Parties, the Contractor will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

35 GOVERNING LAW; VENUE

This Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into this Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to this Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

36 BOND ORDINANCES

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

37 NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this 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.

38 LEGAL AUTHORITY

The Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of the Contractor represents and warrants that he has been fully authorized by the Contractor to execute this Agreement on behalf of the Contractor and to validly and legally bind the Contractor to all the terms, performances and provisions of this Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either the Contractor or the person signing this Agreement to enter into this Agreement.

39 LICENSES, PERMITS, AND OTHER AUTHORIZATIONS

The Contractor shall secure, prior to the Term, and shall maintain, at its sole expense, all licenses, certifications, rights, permits, and other authorizations required to perform its obligations under this Agreement. This Section is a material part of this Agreement.

40 NO CONSTRUCTION AGAINST DRAFTING PARTY

The Parties and their respective counsel have had the opportunity to review this Agreement, and this Agreement will not be construed against any party merely because any provisions of this Agreement were prepared by a particular party.

41 ORDER OF PRECEDENCE

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

- Appendix: Standard Federal Assurances
- This Agreement
- Exhibit A: Scope of Work
- Exhibit B: Pricing
- Exhibit C: Insurance Requirements
- Exhibit D: Task Proposals and Execution Process
- Exhibit E: Scheduling and Progress Reporting

42 SURVIVAL OF CERTAIN PROVISIONS

The terms of this Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of this Agreement survive this Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Contractor's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

43 INUREMENT

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

44 TIME IS OF THE ESSENCE

The Parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.

45 FORCE MAJEURE

Neither Party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, unreasonable delay of carriers, governmental order or regulation, complete or partial shutdown of manufactures, unreasonable unavailability of equipment or software from suppliers, default of a Subcontractor or vendor (if such default arises out of causes beyond their reasonable control), the actions or omissions of the other Party and/or other substantially similar occurrences beyond the Party's reasonable control ("**Excusable Delay**"). In the event of any such Excusable Delay, time for performance shall be extended for as may be reasonably necessary to compensate for such delay.

46 PARAGRAPH HEADINGS

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

47 CITY EXECUTION OF AGREEMENT

- 47.1 City Execution.** This Agreement is expressly subject to, and shall become effective upon, the execution of all signatories of the City and, if required, the approval of Denver City Council. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same.
- 47.2 Electronic Signatures and Electronic Records.** The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City and/or Contractor 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.

48 ADVERTISING AND PUBLIC DISCLOSURE

The Contractor shall not include any reference to this Agreement or to services performed pursuant to this Agreement in any of the Contractor's advertising or public relations materials without first obtaining the City's written approval. Any oral presentation or written materials related to services performed under this Agreement will be limited to services that have been accepted by the City. The Contractor shall notify the City in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

49 EXTERNAL TERMS AND CONDITIONS DISCLAIMER

Notwithstanding anything to the contrary herein, the City shall not be subject to any provision including any terms, conditions, or agreements appearing on the Contractor's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

50 PROHIBITED TERMS

Any term included in this Agreement that requires the City to indemnify or hold the Contractor harmless; requires the City to agree to binding arbitration; limits the Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be *void ab initio*.

51 USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS

The Contractor shall cooperate and comply with the provisions of Executive Order 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 barring the Contractor from City facilities or participating in City operations.

52 ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS

The Contractor consents to the use of electronic signatures by the City. This 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 this 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 this 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.

53 ATTACHED EXHIBITS INCORPORATED

The following attached exhibits are hereby incorporated into and made a material part of this Agreement:

- Appendix: Standard Federal Assurances
- This Agreement
- Exhibit A: Scope of Work
- Exhibit B: Pricing
- Exhibit C: Insurance Requirements
- Exhibit D: Task Proposals and Execution Process
- Exhibit E: Scheduling and Progress Reporting

[SIGNATURE PAGES FOLLOW]

Contract Control Number:
Contractor Name:

PLANE-202474761-00
APEX SYSTEMS, LLC DBA GLIDEFAST CONSULTING

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

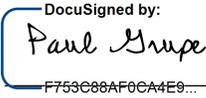
By:

By:

By:

Contract Control Number:
Contractor Name:

PLANE-202474761-00
APEX SYSTEMS, LLC DBA GLIDEFAST CONSULTING

By:  F753C88AF0CA4E9...

Name: Paul Grupe
(please print)

Title: Vice President of solutions consulting
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

APPENDIX

Federal Aviation Administration Required Contract Provisions

ALL CONTRACTS – NON-AIP FUNDED

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

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

As used in these Contract Provisions, “Sponsor” means The City and County of Denver, Department of Aviation, and “Contractor” or “Consultant” means the Party of the Second Part as set forth in Contract / Lease / Agreement to which this Appendix is attached.

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Issued on June 19, 2018

GENERAL CIVIL RIGHTS PROVISIONS

Clause that is used for Contracts:

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

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

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Appendix A – Contracts Provisions, Contract Clause A5.3.1, Issued on June 19, 2018

Clause that is used for Lease Agreements or Transfer Agreements:

The (tenant/concessionaire/lessee) agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the (tenant/concessionaire/lessee) transfers its obligation to another, the transferee is obligated in the same manner as the (tenant/concessionaire/lessor).

This provision obligates the (tenant/concessionaire/lessee) for the period during which the property is owned, used or possessed by the (tenant/concessionaire/lessee) and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Appendix A – Contracts Provisions, Contract Clause A5.3.2, Issued on June 19, 2018

CIVIL RIGHTS – TITLE VI ASSURANCE

Compliance with Nondiscrimination Requirements:

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the contractor under the contract until the contractor complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Appendix A – Contracts Provisions, Contract Clause A6.4.1, Issued on June 19, 2018

Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program:

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of the Airport Improvement Program grant assurances.

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, Sponsor will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the Sponsor will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of Sponsor and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Appendix A – Contracts Provisions, Contract Clause A6.4.3, Issued on June 19, 2018

Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program:

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Sponsor pursuant to the provisions of the Airport Improvement Program grant assurances.

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, Sponsor will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, Sponsor will there upon revert to and vest in and become the absolute property of Sponsor and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Appendix A – Contracts Provisions, Contract Clause A6.4.4, Issued on June 19, 2018

Title VI List of Pertinent Nondiscrimination Acts and Authorities:

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation— Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Appendix A – Contracts Provisions, Contract Clause A6.4.5, Issued on June 19, 2018

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

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

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

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Appendix A – Contracts Provisions, Contract Clause A17.3, Issued on June 19, 2018

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

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

Source: Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, Appendix A – Contracts Provisions, Contract Clause A20.3, Issued on June 19, 2018

For additional information, please refer to:

https://www.faa.gov/airports/aip/procurement/federal_contract_provisions/



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EXHIBIT A

ServiceNow MANAGEMENT SERVICES STATEMENT OF WORK

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1. GENERAL INFORMATION

1.1. Definitions

The following definitions apply to this SOW:

- 1.1.1 The City and County of Denver, Department of Aviation: Also known as “DEN” or the “City.”
- 1.1.2 Consultant: The successful proposer awarded a contract as a result of this RFP.
- 1.1.3 Fulfiller License User – a User that has access to the Program functions with specific roles and access rights to fulfil tasks in accordance with the associated license agreement for the Program.
- 1.1.4 Content – electronic information, provided by users and fulfillers that has been created, or uploaded, by a User while accessing the Services.
- 1.1.5 Internet – the public worldwide network of TCP/IP-based networks.
- 1.1.6 Program – the ServiceNow software Platform licensed to DEN by ServiceNow under a separate license agreement.
- 1.1.7 User – the individuals authorized by DEN to access and use the Services. A User includes self-service users and fulfiller license users.
- 1.1.8 ServiceNow Admins – the DEN system management experts that provide daily support of the ServiceNow DEN instances.
- 1.1.9 ServiceNow Vendor – DEN environment hosting provider.

2. OVERVIEW

Denver International Airport (DEN) Business Technologies Service Management Platform is ServiceNow. The application is used by all DEN organizational units to request IT services. Several of DEN organizational units also use the ServiceNow application to track requests for services outside of IT supported and managed services. The Business Technologies department uses the application to manage all internal business services and track all non-IT business services. The Business Technologies department manages all levels of IT service management, incident, change, request, problem along with the management of Vendor Risk Management and GRC functions for critical infrastructure and functions at the DEN.

The project scope is comprised of software license acquisition, support services, professional services, and training services for the ServiceNow platform.



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3. STATEMENT OF WORK

3.1. Software License Acquisition

- 3.1.1. The Consultant will ensure DEN has the appropriate fulfiller subscription licenses for all users accessing the DEN ServiceNow system for each of the modules activated in the current subscription agreement.
- 3.1.2. The Consultant shall be a ServiceNow authorized provider from which DEN will obtain its license(s) to the Program under an applicable license agreement(s) as well as maintenance for the Program under the applicable software subscription and support agreement(s).
- 3.1.3. The Consultant will ensure DEN is appropriately licensed for all its current environments, Production, Test/QA, Development and Sandbox.
- 3.1.4. Provide an annual review of the current licensing used by DEN for its subscription and system environments to ensure there are no changes needed prior to the subscription renewal. The Consultant must have exceptional licensing and product knowledge to ensure DEN is licenses appropriately to maintain current service offerings.
- 3.1.5. The Consultant should have 5 or more years of licensing, support, professional and training experience.
- 3.1.6. The consultant should provide ongoing consultative feedback to assist DEN with acquiring newer features and support services.
- 3.1.7. The Consultant must ensure prompt and accurate responses for license and support service inquiries or quote requests.
- 3.1.8. The consultant must schedule quarterly or monthly checkpoint meetings with DEN to review current services, current licensing allocations, issues raised by or on behalf of DEN for these services.

3.2. Support Services

The Consultant will provide the following which will collectively be referred to herein as, the "Services":

- 3.2.1. The Consultant will be responsible for installing and testing any patches, fixes, and upgrades DEN is entitled to receive under the software subscription and support agreement that pertains to the Program to ensure DEN stays up to date and in compliance.
- 3.2.2. The Consultant will work with DEN to ensure that customizations impacted by upgrades or deprecations remain functional, in compliance, and utilize best practices recommended by ServiceNow.
- 3.2.3. Consultant will provide consultation services to review new ServiceNow offerings for newer features and/or functionality.
- 3.2.4. The Consultant should assume our current environment utilizes ServiceNow Software as a Service (SaaS) and Platform as a Service (PaaS).



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- 3.2.5. Hosting is not on premises at DEN and will continue to be hosted by ServiceNow.
- 3.2.6. The Consultant will provide enhancement support to assist DEN with its backlog items requested by the DEN customers to create new offerings, modify existing features and help fix broken processes.
- 3.2.7. Refresh content from the Production Environment to the Development and Test Environments as needed or requested by DEN.
- 3.2.8. The Consultant will be a liaison between DEN and ServiceNow for all support tickets opened in the ServiceNow Support portal helping to resolve issues that have a significant impact with current services.

3.3. Professional Services

- 3.3.1. Consultant will provide time and materials professional services as needed for key projects or system enhancements based on agreed upon statements of work.

3.4. Training Services

- 3.4.1. Consultant will provide training for DEN ServiceNow Admins and/or licensed fulfillers on the ServiceNow platform for the current modules that DEN currently uses.
- 3.4.2. The consultant will work with DEN to identify training opportunities needed for existing and new services that can be acquired from ServiceNow or offered by the Consultant.

Roles and responsibilities of both parties are listed below.

4. ROLES AND RESPONSIBILITIES

4.1. Consultant's Responsibilities - Consultant will identify a project manager who will:

- 4.1.1. Review the SOW, and any associated documents, with DEN's IT manager.
- 4.1.2. Coordinate and manage the technical activities of Consultant's personnel.
- 4.1.3. Establish and maintain communications through DEN's IT manager.
- 4.1.4. Review and administer the change control procedure with DEN's IT manager.
- 4.1.5. Manage, measure, track and evaluate progress under this SOW and resolve any issues with DEN's IT manager.
- 4.1.6. Conduct quarterly and annually scheduled meetings with DEN's IT manager to review status; and provide and perform incident, problem, and change management for the Hosting Environment.

4.2. DEN's Responsibilities - DEN will identify an IT manager who will:

- 4.2.1. Manage DEN's personnel and responsibilities under this SOW.
- 4.2.2. Serve as the interface between consultant and all of DEN organizations participating in these Services.



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- 4.2.3. Submit licensing, support service, professional and or training service request via email to the Consultants project manager or use a designated support portal provided by the Consultant.
- 4.2.4. Administer the change control procedure with the Consultant's project manager.
- 4.2.5. Participate in any status meetings.
- 4.2.6. Obtain and provide information, data, and decisions within a reasonable time, as determined by DEN, at Consultant's request.
- 4.2.7. Help resolve any issues and escalate issues within DEN's organization, as necessary; and
- 4.2.8. Review with the Consultant's project manager any of DEN's invoice or billing requirements.

5. SERVICES PROVIDED BY CONSULTANT

The parties agree the following services are provided by the Consultant. These activities will be maintained through a cooperative effort between the Consultant Representative and DEN's IT Manager:

- 5.1. Perform system administration activities which should include but are not limited to, assistance with troubleshooting system configuration issues, deploying plugins upon request, testing system upgrades and other maintenance activities, ensuring all DEN licensed components do not become deprecated, applying any fixes, upgrades or enhancements to the Program agreed to between DEN and the Consultant that DEN is entitled to receive under the support agreement.
- 5.2. Deploy changes, created by DEN, between the Development Environment (if applicable) and the Test and Production Environments in accordance with the DEN change management processes.
- 5.3. Ensure system stability and data integrity by the use of ServiceNow best practices.
- 5.4. Supporting, troubleshooting, and patching integrations created using the ServiceNow Integrations Hub to ensure integration stability, performance, and uptime.
- 5.5. If services are provided and it results in a performance or availability issue, the consultant will open a ticket with ServiceNow and engage the DEN manager or SME on any active issues.
- 5.6. Create, execute, and maintain a library of test cases and test automation for general ServiceNow functionality in use at DEN as well as DEN customizations and processes.
- 5.7. Conduct training sessions and/or knowledge transfer meetings to the DEN system admins upon request.
- 5.8. Refresh content from the Production Environment to the Development and Test Environments as needed or requested by DEN.
- 5.9. Submit tickets in the ServiceNow Support Portal on behalf of DEN to escalate and resolve issues affecting current services.

6. SERVICES PROVIDED BY DEN



DENVER INTERNATIONAL AIRPORT
8500 Peña Blvd. | Denver, Colorado 80249-6340 | (303) 342-2000

The parties agree the following are DEN's responsibility:

- 6.1. Provide access to consultants required to access the DEN ServiceNow Program to perform tasks based on this SOW.
- 6.2. Monitor license usage in the DEN ServiceNow instance to ensure appropriate allocations and access granted to users are correct.
- 6.3. Maintain the correct number of valid Program license rights and entitlements and the software subscription and support during the Term of this SOW.
- 6.4. Follow the incident, problem and change management processes and procedures as provided by DEN.
- 6.5. Ensuring the security and confidentiality of all User IDs, including establishing, distributing, and monitoring unique User identification names and passwords for access to and use of the Services.
- 6.6. DEN will monitor the Availability and will investigate any performance deviations or Outages.

7. AVAILABILITY AND SUPPORT

7.1. Availability Objective

DEN Services allow for access to the Program 24 hours per day, seven days per week. The availability objective for such access to the Program is 99.9% during any given month during the Term of this SOW ("Availability"). Availability is measured at the Hosting Environment monthly, exclusive of any Outages. An "Outage" is DEN's inability to access the Program or recognition by consultant that DEN is unable to access the Program.

The Consultant will ensure to adhere to scheduled maintenance and update periods established by the hosting vendor, ServiceNow. Any issues will be reported to ServiceNow keeping DEN informed of the issue status. Consultant will be responsible for opening issues with ServiceNow that impacts the DEN service availability.

To the extent there are any performance deviations or Outages, caused by changes the Consultant made, the Consultant will use commercially reasonable efforts to restore the Services. The Consultant will examine root causes, identify problems, and attempt to minimize recurrences by making recommendations for actions to be taken by DEN, or ServiceNow.

7.2. Exclusions – Outages under this SOW are:

- 7.2.1. Scheduled maintenance periods.
- 7.2.2. Planned activities, such as database maintenance and fixes, upgrades, or enhancements to the Program, as agreed to with DEN.



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8500 Peña Blvd. | Denver, Colorado 80249-6340 | (303) 342-2000

8. SUPPORT

Should DEN require technical support for the Program, DEN may contact the Consultant. The Consultant will open and manage tickets on DEN's behalf with ServiceNow, if necessary.

9. PROJECT CHANGE CONTROL PROCEDURE

The following process will be followed if a change to this SOW is required.

- 9.1. A Project Change Request ("PCR") will be the vehicle for communicating a change. The PCR must describe the change, the rationale for the change and the effect the change will have on the SOW. The investigation and the implementation of changes may result in modifications to the Term, charges, and other terms of this SOW and the Agreement.
- 9.2. A PCR must be signed by authorized representatives from both parties to authorize implementation of the change. Until a change is agreed to in writing, both parties will continue to act in accordance with the latest agreed version of the SOW.

10. ADDITIONAL USERS

In the event DEN requires an additional number of Users to be enabled to access and use the Program, DEN will notify the Consultant in writing and the Consultant will provide DEN with a Project Change Request ("PCR") for such additional Users within a reasonable period after DEN's request. The Consultant must obtain the correct number of Program licenses and entitlements for such Users.

11. ADDITIONAL TERMS AND CONDITIONS

Continuation of Services - DEN will notify Consultant in writing at least 60 days prior to expiration of the current Term if DEN wishes to either a) continue the Services without interruption, beyond any current Term; or b) terminate the Services at the end of any current Term. If DEN fails to do either of the foregoing, the Consultant will terminate the Services immediately upon expiration of the current Term.

EXHIBIT B - PRODUCTS

All proposals must include a Cost Breakdown. Proposers are asked to complete the following cost tables with their best solution pricing.

Line #	DESCRIPTION OF PRODUCT <i>(If Different, please add in "Vendor" Section)</i>	PART NO.	CURRENT QTY	YEAR 1	YEAR 2	YEAR 3	YEAR 4 (Term Extension)	YEAR 5 (Term Extension)	TOTAL
1	DEN: ServiceNow® Agile Team - Module (Monthly) ServiceNow- PROD12492	AR2472-SER004-062420-017	1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	VENDOR:								
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
2	DEN: ServiceNow® Customer Service Management Professional- FulfillerUser v7 - PROD19279	PROD19279-491	230	\$ 303,594.48	\$ 312,702.31	\$ 322,083.38	\$ 331,745.89	\$ 341,698.26	\$ 1,611,824.33
	VENDOR:								
	Percent Price Change YOY (+/-)			#REF!	3.00%	3.00%	3.00%	3.00%	
3	DEN: ServiceNow® Strategic Portfolio Management Standard- SPM User - PROD16951	PROD16951-880	30	\$ 21,999.60	\$ 22,659.59	\$ 23,339.38	\$ 24,039.56	\$ 24,760.74	\$ 116,798.86
	VENDOR:								
	Percent Price Change YOY (+/-)			#REF!	3.00%	3.00%	3.00%	3.00%	
4	DEN: ServiceNow® Grandfathered Custom Tables ServiceNow- PROD11655	AR2472-SER004-062420-008	9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	VENDOR:								
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
5	DEN: ServiceNow® Business Stakeholder User v4 ServiceNow PROD17800	PROD17800-491	20	\$ 6,000.12	\$ 6,180.12	\$ 6,365.53	\$ 6,556.49	\$ 6,753.19	\$ 31,861.45
	VENDOR:								
	Percent Price Change YOY (+/-)			#REF!	3.00%	3.00%	6.09%	6.09%	
6	DEN: ServiceNow® Vendor Risk Management- Vendors ServiceNow- PROD12023	AR2472-SER004-120619-020	100	\$ 86,662.80	\$ 89,262.68	\$ 91,940.56	\$ 94,698.78	\$ 97,539.74	\$ 460,104.57
	VENDOR:								
	Percent Price Change YOY (+/-)			#REF!	3.00%	3.00%	3.00%	3.00%	
7	DEN: ServiceNow® IntegrationHub Professional v2 - Transactions ServiceNow- PROD19394	PROD19394-491	1	\$ 42,666.62	\$ 43,946.62	\$ 45,265.02	\$ 46,622.97	\$ 48,021.66	\$ 226,522.90
	VENDOR:								
	Percent Price Change YOY (+/-)			#REF!	3.00%	3.00%	3.00%	3.00%	
	DEN: ServiceNow® Additional Non-Production Instance- US Data Center ServiceNow- PROD00065	AR2472-4112-59	1						
	VENDOR:								
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	

8	<u>VENDOR:</u>			\$ 15,000.05	\$ 15,450.05	\$ 15,913.55	\$ 16,390.96	\$ 16,882.69	\$ 79,637.29
	Percent Price Change YOY (+/-)			#REF!	3.00%	3.00%	3.00%	3.00%	
9	<u>DEN:</u> ServiceNow® Application Portfolio Management- APM User ServiceNow- PROD12015	AR2472-SER004-120619-014	6	\$ 21,520.30	\$ 22,165.90	\$ 22,830.88	\$ 23,515.81	\$ 24,221.28	\$ 114,254.17
	<u>VENDOR:</u>								
	Percent Price Change YOY (+/-)			#REF!	3.00%	3.00%	3.00%	3.00%	
10	<u>DEN:</u> ServiceNow AI Search Starter ServiceNow- PROD15338	PROD15338	1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	<u>VENDOR:</u>								
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
11	<u>DEN:</u> ServiceNow® Document Intelligence Starter- 5K Document Intelligence Pages ServiceNow- PROD18383	PROD18383-491	1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	<u>VENDOR:</u>								
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
12	<u>DEN:</u> ServiceNow® Integrated Risk Management (IRM) Professional- Unrestricted User ServiceNow- PROD13097	PROD13097	2000	\$ 154,728.00	\$ 159,369.84	\$ 164,150.94	\$ 169,075.46	\$ 174,147.73	\$ 821,471.97
	<u>VENDOR:</u>								
	Percent Price Change YOY (+/-)			#REF!	3.00%	3.00%	3.00%	3.00%	
13-Added	<u>DEN:</u> Other ServiceNow Products - Percent Discount on Manufacturer Retail Price. ServiceNow® ITOM Discovery			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	<u>VENDOR:</u>								
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
14-Added	<u>DEN:</u> Other ServiceNow Products - Percent Discount on Manufacturer Retail Price. ServiceNow® App Engine			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	<u>VENDOR:</u>								
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
15-Added	<u>DEN:</u> Other ServiceNow Products - Percent Discount on Manufacturer Retail Price. ServiceNow® Vulnerability Response			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	<u>VENDOR:</u>								
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
16	<u>VENDOR: Support Services</u>		Hourly	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	
	Percent Price Change YOY (+/-)			#REF!	0.00%	0.00%	0.00%	0.00%	

17	VENDOR: Training Services			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
16	VENDOR:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Percent Price Change YOY (+/-)			#REF!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

EXHIBIT B - PROFESSIONAL SERVICES

The table below represents typical job classifications for the Scope of Work. Fill in the hourly rate that will be in effect for the duration of the project. If other positions are being proposed, please include below using "Other" and add the job title.

JOB TITLE	HOURLY RATE
Program Manager / Sr. Project Manager	\$ 200.00
Project Manager	\$ 200.00
System Administrator -	\$ 200.00
Developer - Sr TC	\$ 200.00
Trainer	\$ 200.00
Other (Architect)	\$ 200.00
Other (OCM)	\$ 200.00
Other (BPC)	\$ 200.00
Other (Business Analysis)	\$ 200.00

EXHIBIT C

**CITY AND COUNTY OF DENVER
INSURANCE REQUIREMENTS FOR DEPARTMENT OF AVIATION
GOODS AND SERVICES AGREEMENT**

A. Certificate Holder and Submission Instructions

Contractor must provide a Certificate of Insurance as follows:

Certificate Holder: CITY AND COUNTY OF DENVER
Denver International Airport
8500 Peña Boulevard
Denver CO 80249
Attn/Submit to: contractadmininvoices@flydenver.com

- ACORD Form (or equivalent) certificate is required.
- Contractor must be evidenced as a Named Insured party.
- Electronic submission only, hard copy documents will not be accepted.
- Reference on the certificate must include the City-assigned Contract Number, if applicable.

The City may at any time modify submission requirements, including the use of third-party software and/or services, which may include an additional fee to the Contractor.

B. Defined Terms

1. “Agreement” as used in this exhibit refers to the contractual agreement to which this exhibit is attached, irrespective of any other title or name it may otherwise have.
2. “Contractor” as used in this exhibit refers to the party contracting with the City and County of Denver pursuant to the attached Agreement.

C. Coverages and Limits

1. Commercial General Liability

Contractor shall maintain insurance coverage including bodily injury, property damage, personal injury, advertising injury, independent contractors, and products and completed operations in minimum limits of \$1,000,000 each occurrence, \$2,000,000 products and completed operations aggregate; if policy contains a general aggregate, a minimum limit of \$2,000,000 annual per location aggregate must be maintained.

- a. Coverage shall include Contractual Liability covering liability assumed under this Agreement (including defense costs assumed under contract) within the scope of coverages provided.
- b. Coverage shall include Mobile Equipment Liability, if used to perform services under this Agreement.
- c. If a “per location” policy aggregate is required, “location” shall mean the entire airport premises.

2. Business Automobile Liability

Contractor shall maintain a minimum limit of \$1,000,000 combined single limit each occurrence for bodily injury and property damage for all owned, leased, hired and/or non-owned vehicles used in performing services under this Agreement.

- a. If operating vehicles unescorted airside at DEN, a \$10,000,000 combined single limit each occurrence for bodily injury and property damage is required.
- b. If Contractor does not have blanket coverage on all owned and operated vehicles and will require unescorted airside driving privileges, then a schedule of insured vehicles (including year, make, model and VIN number) must be submitted with the Certificate of Insurance.
- c. If transporting waste, hazardous material, or regulated substances, Contractor shall carry a Broadened

Pollution Endorsement and an MCS 90 endorsement on its policy.

- d. If Contractor does not own any fleet vehicles and Contractor's owners, officers, directors, and/or employees use their personal vehicles to perform services under this Agreement, Contractor shall ensure that Personal Automobile Liability including a Business Use Endorsement is maintained by the vehicle owner, and if appropriate, Non-Owned Auto Liability by the Contractor. This provision does not apply to persons solely commuting to and from the airport.
 - e. If Contractor will be completing all services to DEN under this Agreement remotely and not be driving to locations under direction of the City to perform services this requirement is waived.
3. Workers' Compensation and Employer's Liability Insurance
- Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits no less than \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.
- a. Colorado Workers' Compensation Act allows for certain, limited exemptions from Worker's Compensation insurance coverage requirements. It is the sole responsibility of the Contractor to determine their eligibility for providing this coverage, executing all required documentation with the State of Colorado, and obtaining all necessary approvals. Verification document(s) evidencing exemption status must be submitted with the Certificate of Insurance.
4. Property Insurance
- Contractor is solely responsible for any loss or damage to its real or business personal property located on DEN premises including, but not limited to, materials, tools, equipment, vehicles, furnishings, structures and personal property of its employees and subcontractors unless caused by the sole, gross negligence of the City. If Contractor carries property insurance on its property located on DEN premises, a waiver of subrogation as outlined in Section F will be required from its insurer.
5. Professional Liability (Errors and Omissions) Insurance
- Contractor shall maintain a minimum limit of \$1,000,000 each claim and annual policy aggregate, providing coverage for all applicable professional services outlined in this Agreement.
6. Media Professional Liability
- Contractor shall maintain a minimum limit of \$1,000,000 per occurrence and \$1,000,000 annual policy aggregate covering claims involving libel, slander, infringement of copyright, invasion of the right of privacy, and unauthorized use of titles, formats, ideas, characters, plots or other material used in the publication or design.
7. Cyber Insurance
- Contractor shall maintain a minimum limit of \$1,000,000 per occurrence and \$1,000,000 annual policy aggregate covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion, and network security.
8. Technology Errors and Omissions
- Contractor shall maintain a minimum limit of \$1,000,000 per occurrence and \$1,000,000 annual policy aggregate including cyber liability, network security, privacy liability and product failure coverage.
- a. Coverage shall include, but not be limited to, liability arising from theft, dissemination and/or use of personal, private, confidential, information subject to a non-disclosure agreement, including information stored or transmitted, privacy or cyber laws, damage to or destruction of information, intentional and/or unintentional release of private information, alteration of information, extortion and network security, introduction of a computer virus into, or otherwise causing damage to, a customer's

or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon, advertising injury, personal injury (including invasion of privacy) and intellectual property offenses related to internet.

9. Unmanned Aerial Vehicle (UAV) Liability:

If Contractor desires to use drones in any aspect of its work or presence on DEN premises, the following requirements must be met prior to commencing any drone operations:

- a. Express written permission must be granted by DEN.
- b. Express written permission must be granted by the Federal Aviation Administration (FAA).
- c. Drone equipment must be properly registered with the FAA.
- d. Drone operator(s) must be properly licensed by the FAA.
- e. Contractor must maintain UAV Liability including flight coverage, personal and advertising injury liability, and hired/non-owned UAV liability for its commercial drone operations with a limit no less than \$1,000,000 combined single limit each occurrence for bodily injury and property damage.

10. Excess/Umbrella Liability

Combination of primary and excess coverage may be used to achieve minimum required coverage limits. Excess/Umbrella policy(ies) must follow form of the primary policies with which they are related to provide the minimum limits and be verified as such on any submitted Certificate of Insurance.

D. Reference to Project and/or Contract

The City Project Name, Title of Agreement and/or Contract Number and description shall be noted on the Certificate of Insurance, if applicable.

E. Additional Insured

For all coverages required under this Agreement (excluding Workers' Compensation, Employer's Liability and Professional Liability, if required), Contractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, successors, agents, employees, and volunteers as Additional Insureds by policy endorsement.

F. Waiver of Subrogation

For all coverages required under this Agreement (excluding Professional Liability, if required), Contractor's insurer(s) shall waive subrogation rights against the City and County of Denver, its elected and appointed officials, successors, agents, employees, and volunteers by policy endorsement.

If Contractor will be completing all services to the City under this Agreement remotely and not be traveling to locations under direction of the City to perform services, this requirement is waived specific to Workers' Compensation coverage.

G. Notice of Material Change, Cancellation or Nonrenewal

Each certificate and related policy shall contain a valid provision requiring notification to the Certificate Holder in the event any of the required policies be canceled or non-renewed or reduction in required coverage before the expiration date thereof.

1. Such notice shall reference the DEN assigned contract number related to this Agreement.
2. Such notice shall be sent thirty (30) calendar days prior to such cancellation or non-renewal or reduction in required coverage unless due to non-payment of premiums for which notice shall be sent ten (10) calendar days prior.
3. If such written notice is unavailable from the insurer or afforded as outlined above, Contractor shall provide written notice of cancellation, non-renewal and any reduction in required coverage to the Certificate Holder within three (3) business days of receiving such notice by its insurer(s) and include documentation of the formal notice received from its insurer(s) as verification. Contractor shall replace cancelled or nonrenewed policies with no lapse in coverage and provide an updated Certificate of Insurance to DEN.
4. In the event any general aggregate or other aggregate limits are reduced below the required minimum per

occurrence limits, Contractor will procure, at its own expense, coverage at the requirement minimum per occurrence limits. If Contractor cannot replenish coverage within ten (10) calendar days, it must notify the City immediately.

H. Cooperation

Contractor agrees to fully cooperate in connection with any investigation or inquiry and accept any formally tendered claim related to this Agreement, whether received from the City or its representative. Contractor's failure to fully cooperate may, as determined in the City's sole discretion, provide cause for default under the Agreement. The City understands acceptance of a tendered claim does not constitute acceptance of liability.

I. Additional Provisions

1. Deductibles or any type of retention are the sole responsibility of the Contractor.
2. Defense costs shall be in addition to the limits of liability. If this provision is unavailable that limitation must be evidenced on the Certificate of Insurance.
3. Coverage required may not contain an exclusion related to operations on airport premises.
4. A severability of interests or separation of insureds provision (no insured vs. insured exclusion) is included under all policies where Additional Insured status is required.
5. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City under all policies where Additional Insured status is required.
6. If the Contractor procures or maintains insurance policies with coverages or limits beyond those stated herein, such greater policies will apply to their full effect and not be reduced or limited by the minimum requirements stated herein.
7. All policies shall be written on an occurrence form. If an occurrence form is unavailable or not industry norm for a given policy type, claims-made coverage will be accepted by the City provided the retroactive date is on or before the Agreement Effective Date or the first date when any goods or services were provided to the City, whichever is earlier, and continuous coverage will be maintained or an extended reporting period placed for three years (eight years for construction-related agreements) beginning at the time work under this Agreement is completed or the Agreement is terminated, whichever is later.
8. Certificates of Insurance must specify the issuing companies, policy numbers and policy periods for each required form of coverage. The certificates for each insurance policy are to be signed by an authorized representative and must be submitted to the City at the time Contractor signed this Agreement.
9. The insurance shall be underwritten by an insurer licensed or authorized to do business in the State of Colorado and rated by A.M. Best Company as A- VIII or better.
10. Certificate of Insurance and Related Endorsements: The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements shall not act as a waiver of Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. All coverage requirements shall be enforced unless waived or otherwise modified in writing by DEN Risk Management. Contractor is solely responsible for ensuring all formal policy endorsements are issued by their insurers to support the requirements.
11. The City shall have the right to verify, at any time, all coverage, information, or representations, and the insured and its insurance representatives shall promptly and fully cooperate in any such audit the City may elect to undertake including provision of copies of insurance policies upon request. In the case of such audit, the City may be subject to a non-disclosure agreement and/or redactions of policy information unrelated to verification of required coverage.
12. No material changes, modifications, or interlineations to required insurance coverage shall be allowed without the review and written approval of DEN Risk Management.
13. Contractor shall be responsible for ensuring the City is provided updated Certificate(s) of Insurance prior to each policy renewal.
14. Contractor's failure to maintain required insurance shall be the basis for immediate suspension and cause for termination of this Agreement, at the City's sole discretion and without penalty to the City.

J. Part 230 and the DEN Airport Rules and Regulations

If the minimum insurance requirements set forth herein differ from the equivalent types of insurance requirements in Part 230 of the DEN Airport Rules and Regulations, the greater and broader insurance requirements shall supersede those lesser requirements, unless expressly excepted in writing by DEN Risk Management. Part 230

applies to Contractor and its subcontractors of any tier.

K. Applicability of ROCIP Requirements

The City and County of Denver and Denver International Airport (hereinafter referred to collectively as “DEN”) has arranged for certain construction activities at DEN to be insured under an Owner Controlled Insurance Program (OCIP) or a Rolling Owner Controlled Insurance Program (ROCIP) (hereinafter collectively referred to as “ROCIP”). A ROCIP is a single insurance program that insures DEN, the Contractor and subcontractors of any tier, and other designated parties (Enrolled Parties), for work performed at the Project Site. **Work contemplated under this Agreement by Contractor is NOT included under a ROCIP program. Contractor must provide its own insurance as specified in this Agreement. If Contractor is assigned work to be conducted within a ROCIP Project Site it must comply with the provisions of the DEN ROCIP Safety Manual, which is part of the Contract Documents and which is linked below to the most recent manual.**

[DEN ROCIP Safety Manual](#)

DEN is additionally providing links to the DEN ROCIP Insurance Manual and the DEN ROCIP Claims Guide solely for Contractor’s information.

[DEN ROCIP Insurance Manual](#)

[DEN ROCIP Claims Guide](#)

Notice of Change to ROCIP: DEN reserves the right to assign work per task order to a specific ROCIP program, if more than one is active, as well as terminate or modify a DEN ROCIP or any portion thereof. Further, dependent on factors including, but not limited to, the official timing and duration of the ROCIP project for which services are provided or related to under this Agreement, DEN may need to transition from one ROCIP program to another and introduce corresponding requirements for contractors. DEN will provide Contractor notice of changes regarding a ROCIP program as applicable to Contractor’s work or responsibilities under the ROCIP Safety Manual.

Exhibit D

PROFESSIONAL SERVICES

TASK PROPOSALS AND EXECUTION PROCESS

Revised: April 2022



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I INTRODUCTION

1. The Facility Description

The Denver International Airport Terminal Complex consists of the main terminal, north terminal support facility, airport office building, modular parking structures with integral vehicle curbsides, three airside concourses, hotel and transit center, central utility plant, and numerous ancillary support facilities including mechanical and electrical systems located below grade which serve these above grade facilities.

2. General Scope

2.1 The Airport maintains on-call professional design services contracts to provide various engineering, architectural, and cost estimating services on an as needed basis. The Task Order scopes of work are defined on an individual basis and may include modifications and additions to existing airport facilities and systems. Conducting these design services will include programming; testing; performing studies; providing preliminary designs; site inspections; field investigations, developing and maintaining construction documents, plans, specifications; preparing cost estimates; and providing construction administration for various mechanical and electrical systems additions, improvements, and modifications.

2.2 Should a Task Order scope of work require an engineering discipline that is not currently represented on the Consultant's team, the Consultant will be requested to add that discipline as part of the team for that specific Task Order scope of work. Consultant will identify a specialty subconsultant for the required discipline and will submit the subconsultant's qualifications, personnel pay classifications, and agreed hourly billing rates if the rates are not included on Exhibit B for the City's approval prior to contracting for services with that subconsultant.

2.3 The term "Task Order" when it is used in this Agreement means all the work associated with the proposal preparation; preparation of design and construction documents, plans, specifications, and estimates; and construction administration for all professional design services as requested by the Senior Vice President of Business Technologies (SVP of BT) or the designated DEN representative.

3. Consultant's Specific Scope of Work

3.1 Consultant Services

3.1.1 The Consultant, as deemed necessary by the SVP of BT or the designated DEN representative, will be required to provide professional design and engineering services for specific task scopes of work. The Consultant must be a licensed architect or professional engineer in the State of Colorado. The Consultant's general scope of work requirements are detailed in, and its activities will comply with, the Agreement and the current Design Standards Manuals including but not limited to: Standards and Criteria, Digital Facilities, and Infrastructure, Structural, Electrical, Mechanical,



Architectural, Civil, Life Safety Systems, Communications and Electronic Systems, Sustainability, and this Exhibit for the duration of the Agreement.

3.1.2 Specific task scopes of work, which will be issued with a Task Order Request for Proposals, which may include but are not limited to the following:

- Design administration
- Design analysis programming
- Active Electronics and Telecommunications design
- Energy and/or LEED analysis and conformance to latest energy requirements
- Cost estimating services
- Security, communications, lightning protection design services
- Construction schedule services
- Preparation and reproduction of schematic, bid, and construction documents.
- Bid evaluation
- Commissioning coordination
- Code analysis
- Building information modeling in Revit
- Construction administration
- Agreement closeout services
- Preparation of record or "as built" documents to include, but not limited to, updated Revit models

3.2 Task Order Scope of Work

3.2.1 The SVP of Business Technologies or the designated DEN representative will issue to the Consultant a Task Order Request for Proposal for each specific Task Order. If the work will produce a product used for construction, the City will also issue a construction budget. The Consultant will prepare and submit a fee proposal and its Task Order design schedule within 14 days of receipt of the signed Task Order Request for Proposal unless an alternate delivery duration is defined by the DEN Project Manager in the Task Order Request for Proposal. Task Order Requests for Proposal may not result in an executed Task Order.

- A narrative of the understanding of the requested Task Order including all assumptions, exclusions, expenses, and breakdown of scope of work performed by all subconsultants.
- A completed Fee Proposal Spreadsheet broken down by personnel pay classifications, agreed hourly billing rates (see Exhibit B), schedule, and hours necessary to complete the Task Order scope of work.
- A schedule identifying all phases of scope of work with DEN review durations.
- Identification of lump sum not to exceed design fee.



3.3 Task Order Request for Proposal

3.3.1 For each Task Order scope of work issued, the City will review the fee proposal and Task Order design schedule. The Consultant will not begin work on any Task Order scope of work without having received a fully executed On-Call Task Order Authorization. In the event of approval of the Consultant's fees and schedule, the Consultant will perform such work within the time agreed and for the compensation that is approved by the SVP of Business Technologies or the designated DEN representative.

3.3.2 Design Standards Manuals: Each Task Order Request for Proposal will identify the specific chapters or volumes of the DEN Design Standards Manuals (DSMs) that will be applicable to the Task Order scope of work. The Consultant will prepare its fee proposal based upon the Task Order definition and performing the requirements defined in each applicable chapter of the design standards manual. These DSMs are documents which define the requirements for project design, constructability, operability, and performance for airport projects. As such, these documents are periodically updated, revised, and improved. Throughout the duration of this Agreement the most current version of the published DSMs will apply at the time of each On-Call Task Order Authorization, and these versions will supersede previous published versions.

3.3.3 DEN Technical Specifications and Criteria: Denver International Airport has developed specific technical specifications and criteria for, but not limited to, various mechanical, electrical, communications, security systems, structural systems, process procedures, etc. The Consultant will be provided those specifications and criteria for the development of each assigned Task Order(s). The Consultant will review those technical specifications to determine if the technical specifications and/ or criteria are contrary to or in opposition to its professional judgment, to its standard professional office practices, or to the standard level of care performed by competent professionals performing similar duties and responsibilities on similar projects. If, as the result of this review, the Consultant's opinion is that the DEN technical specifications and criteria are requiring design and engineering services that are contrary to its professional judgment and professional responsibility, the Consultant will produce a written detailed report outlining its concerns and defining specifically the items of the specifications and criteria that cause its concern. The Consultant will participate in a meeting with DEN personnel to discuss these issues and reach agreement on the direction and development of the Task that will allow the Consultant to proceed within its acceptable standard of care. Technical specifications shall not be used between multiple tasks without written approval of the DEN Project Manager.

3.3.4 Following this agreement, the Consultant acknowledges that the design and engineering of the Task is produced in accordance with the Agreement, including its



standard of care and accepts full responsibility for the design and engineering of the Task Order according to the rules, regulations, and laws governing its activities.

3.4 Consultant's Personnel Assigned to This Agreement

3.4.1 The Consultant will assign a lead project manager to this Agreement who has experience and knowledge of design and construction industry standards. The project manager will be the contact person in dealing with the airport on matters concerning this Agreement and will have the full authority to act for the Consultant's organization and at the direction of the SVP of Business Technologies or the designated DEN representative. This project manager will remain on this Agreement during the entire Agreement term, while in the employ of the Consultant, or until such time that his/her performance is deemed unsatisfactory by the City and a formal written request is submitted which requests the removal of the project manager.

3.4.2 Should the City request the removal of a project manager, the Consultant will replace that project manager with a person of similar or equal experience and qualifications. The replacement project manager is subject to the approval of the SVP of BT or the designated DEN representative.

3.4.3 The Consultant may choose to replace a project manager with a principal, associate principal or other individual that is at a higher hourly billing rate. The time that the principal, associate principal, or other individual devotes to tasks that are normally performed by a project manager will be billed at the project manager hourly billing rate. DEN will not pay for work not related to DEN or that DEN deems is not necessary for the scope of work required of consultant or its project manager.

3.4.4 The Consultant may submit, and the city will consider a request for reassignment of a project manager, should the Consultant deem it to be in the best interest of the Consultant's organization or for that project manager's career development or in the best interest of the city. Reassignment will be subject to the approval of the SVP of Business Technologies or the designated DEN representative.

3.4.5 If the City allows the removal of a project manager, the replacement project manager must have similar or equal experience and qualifications to that of the original project manager. The replacement project manager's assignment to this Agreement is subject to the approval of the SVP of Business Technologies or the designated DEN representative.

3.5 Diligence

3.5.1 The Consultant will perform the services defined by the individual Task Order scope of work in a timely manner and as directed by the SVP of Business Technologies or the designated DEN representative.



3.5.2 The Consultant shall submit their design QA/QC plan with all Task Order proposals and a status of the plan per Task Order at any time requested by the DEN Project Manager.

3.6 Cooperation

3.6.1 The Consultant will fully cooperate and coordinate with other Consultants and approved DEN contractors performing work at DEN. Particularly those consultants and contractors whose work connects or interfaces with the Consultant's Task Order scope of work. The Consultant's fee proposal for each Task Order will include coordination with consultants that have current projects and future DEN projects that are identified at the time that the Consultant is preparing a fee proposal.

4. Miscellaneous Requirements

4.1 Existing Facility Information

- City Supplied Documents: As tasks are defined, DEN will make available the Agreement record documents, when they exist, related to that specific Task Order scope of work.
- Electronic files of Construction Drawings (Task Order Specific)
- Available BIM files for areas of work (Task Order Specific)
- Electronic copies of available Technical Specifications (Task Order Specific)
- 3-D Scans of spaces (Task Order Specific)

4.1.1 Information Gathering: The Consultant will include in its fee proposal for each Task Order, the cost of providing personnel at DEN to gather Task Order information from the DEN Records Management section. This will include, but not be limited to review of hard copy project records documents, review of electronic record documents, site investigations, etc. The DEN electronic documents are not necessarily representative of as-builts conditions in the field. The Consultant's Task Order fee proposals will always include field verification of existing conditions and producing a set of as-built architectural, structural, mechanical, electrical, and other systems documents in electronic format as defined in each Task Order Request for Proposal. Once the On-Call Task Order Authorization is received by the Consultant, the Consultant will begin the Task Order as-builts.

4.2 Airport Security Requirements

4.2.1 Airport Badges: The Consultant will obtain Airport ID badges for personnel who work in the Restricted Area. All badging requirements are described within the Agreement, original RFP documents, and DEN and Federal Aviation Administration rules and regulations.



5. Ownership Of Plans and Documents

5.1 Plans And Documents

5.1.1 Documents prepared for the Project, whether in a tangible or intangible form, without limitation, are works for hire and will become the property of the City and County of Denver, whether the Project is completed or not. The overall design of the Project shall be unique to this Project, and the Consultant will not replicate or otherwise use the overall design of the Project for any other project. The Consultant may retain reproducible copies of such documents so long as the hard copy originals and electronic documents are delivered to the city. The city may use all documents prepared by the Consultant and/or its subconsultant to complete the Project and for additions to this Project and for other facilities developed by or on behalf of the city. The city agrees not to sell any such documents to others, except for a sale or assignment in connection with the sale of the Project. Any such use or reuse by the City or others for facilities developed by or on behalf of the City other than this Project, without written verification or adaptation by the Consultant for the specific purpose intended, will be at the City's sole risk and without liability or legal exposure to the Consultant.

5.1.2 The city may grant the Consultant a nonexclusive license to use portions of the contents of the drawings, specifications, and other documents on other projects except for any aggregation of items that would detract from the uniqueness of the overall design of this Project.

5.1.3 As provided in the contract, Article III, all writings or works of authorship, including, without limitation, all drawings and specifications and other documents, produced or authored by the Consultant and/or its subconsultants while performing services for the City and developed for the City for the Project, together with any copyrights on those writings or works of authorship, are works made for hire and the property of the City. To the extent that any writings or works of authorship may not, by operation of law, be works made for hire or be within the description of the contract, Article III, Consultant irrevocably assigns to the City of the ownership of, and all rights of copyright in, such items, and the City will have the right to obtain and hold, in its own name, rights or copyright, copyright registrations and similar protections which may be available in such works. The Consultant agrees to give the City or its designees all assistance reasonably required to perfect such rights. All contracts entered with the Consultant and between and/or its subconsultants will contain a provision acknowledging and confirming the City's ownership of all writings and works of authorship as described in this provision.

6. Task Order Execution

6.1 Task Order Notice to Proceed

6.1.1 Notification: The City will provide written notification to the Consultant to proceed with a Task Order scope of work. This written notification will come in the



form of a signed On-Call Design Services Authorization. The Consultant will not be authorized to proceed with the work described in this Exhibit or a Task Order Request for Proposal and the City will not be obligated to fund any work performed by the Consultant, until the City has provided signed, written notification to the Consultant that the work is to be performed.

6.1.2 Kick-off meeting: Upon written notification to the Consultant to proceed with a Task Order scope of work, the City may schedule and hold a meeting with the Consultant and all stakeholders to review the scope of work and schedule, familiarize the Consultant with all internal processes, establish invoicing final requirements, and establish required meetings dates.

6.1.3 Schedules: Immediately following the kick-off meeting, the Consultant may be required to DEN's Project Manager, a rolling three-week, look-ahead schedule, for the following three week's work.

6.2 Design

6.2.1 Required Documentation: Unless specifically identified in the Task Order Request for Proposal, refer to the DEN Design Standards Manuals for specific documentation requirements for each discipline.

6.2.2 Submittals: Upon receipt of the executed Task Order, the Consultant will proceed with Task Order scope of work on all Task Order deliverables.

6.2.3 Design Reviews: All Consultant design submittals may be subject to DEN review, as determined by the Task Order and the DEN Project Manager. Consultant shall include DEN reviews in their design schedule, with appropriate timeframes as outlined in the Standards and Criteria DSM or as defined by the Task Order Scope of Work. Upon receipt of DEN review comments, Consultant may request a comment resolution meeting to be scheduled with DEN reviewers. Responses to all DEN comments shall be provided by consultant within seven (7) calendar days after receipt of comments unless a different timeframe is specifically defined in the Task Order Scope of Work. Review and comments by DEN do not relieve the Consultant from liabilities of providing complete design services and is not an acceptance of any errors or omissions that may be contained in the documents. Review by DEN shall NOT be construed by the Consultant as replacing the Consultant's quality control program. Design Review Submittals by the Consultant must be reviewed by the Consultant and corrected prior to submittal to DEN. DEN reserves the right to reject any submittals when DEN determines they do not adequately represent the required level of completion, do not include all relevant design disciplines and systems, or do not include all the required documents.

6.2.4 Design Change Request: Changes to the scope of work initiated by the Consultant will be issued to DEN's Project Manager via a Design Change Request (OCR). Initiation of this form does not guarantee work request acceptance or grant schedule relief. Approval of the Design Change Request will only be received by the Consultant through an executed On-Call Task Order Authorization Amendment. The



Consultant cannot proceed on any work changes without an executed Task Order amendment.

6.2.5 Value Engineering: All value engineering options not identified through the normal design iteration phase shall be submitted through Value Engineering Change Proposal (VECP). The DEN Project Manager will provide written acceptance of all VECP's within 14 days of submission. Any VECP that does not have written acceptance is not approved.

6.2.6 Project Risk: when requested, the Consultant will assist the DEN Project Manager define construction project risks.

6.3 Advertising For Bid & Building Department Plan Review

6.3.1 Certification of Design: Prior to advertising any project for bid or submitted to the building department for plan review, the Agreement documents shall be submitted to the DEN Project Manager accompanied by a completed Certification of Design and Construction Drawings for Advertising form. For AIP funded projects the Design Certification Letter- AIP Projects (FAA) shall be used.

6.3.2 Advertising for Bid: All requirements for consultant participation in project bid advertisement will be outlined in each Task Order Request for Proposal Request for Proposal.

6.3.3 Building Department Plan Review: Unless specifically outlined in the Task Order Request for Proposal, the Consultant shall include the costs associated with submitting Agreement documents to the City, Denver Development Services (DDS) for plan review. Agreement documents shall only be submitted to the building department with written approval by the DEN Project Manager.

6.4 Construction Administration

6.4.1 Construction Phase Administration: All requirements for consultant participation will be outlined in each Task Order Request for Proposal. At a minimum refer to the Design Standards Manual, Standards and Criteria chapter 8 for requirements.

6.5 Additional Services

6.5.1 Changes to the scope of work initiated by the DEN Project Manager will be issued to the Consultant via a Task Order Request for Proposal for Additional Services. Initiation of this request does not guarantee additional work acceptance or grant schedule relief.

6.5.2 Within 14 days upon receipt of the Task Order Request for Proposal for Additional Services, or duration as defined in writing by the DEN Project Manager, the



Consultant shall provide a lump sum not to exceed fee proposal that includes the following:

- A narrative of the understanding of the requested change including all assumptions, exclusions, expenses, and breakdown of additional scope of work performed by all subconsultants.
- A completed Proposal Spreadsheet broken down by personnel pay classifications, agreed hourly billing rates (see Exhibit E), schedule, and hours necessary to complete the additional scope of work.
- A revised schedule identifying all phases of scope of work with DEN reviews.

6.5.3 Additional Services Authorization: Approval of the Consultant's proposal will be through an executed Additional Services Authorization. The Consultant cannot proceed on any work changes without an executed Task Order amendment.

6.6 Task Order Closeout

6.6.1 Task Order Closeout Initiation: Task Order closeout will not begin without written approval from the DEN Project Manager.

6.6.2 Task Order Closeout Documents: Professional Services Affidavit of Completion Letter and Final Statement of Accounting.

6.6.3 Task Order Final Payment: Final payment to the Consultant will not be released until all above information is complete and the Final Lien Release - Professional Services is submitted.

END OF EXHIBIT



Exhibit E

PROFESSIONAL SERVICES

SCHEDULING, PROGRESS REPORTING,
INVOICING AND CORRESPONDENCE CONTROL

Revised: April 2022



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I. PURPOSE

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

II. STANDARD CONTRACTS

1. Introduction

This Exhibit E describes the Consultant's obligations to prepare and submit schedules and progress reports, control its budget and submit invoices. The Consultant shall prepare invoices which are based on its progress toward completing the Consultant's Project. In the "payment for progress" concept described herein, the Consultant schedules the work and identifies the resources (costs and man-hours) which will be required to complete each scheduled phase. Those resources are totaled for each phase. A lump sum cost has been developed for each phase and is described in the Agreement. Progress payment measurement alternatives which the Consultant may propose for written approval for each phase are described in Section 3. below.

2. Work Schedule

2.1 Consultant shall provide the city a preliminary Final Project Work Schedule in a format approved by the Project Manager within 45 days after receiving the Notification to begin work. This schedule shall follow the Work Breakdown Structure (WBS) template provided by the Project Manager, and The City may require this schedule be cost and resource loaded.

2.2 The schedule shall identify completion dates for tasks and submittals shown in the Consultant's Scope of Work.

2.3 The city will provide its comments to the Consultant within seven days after the preliminary Final Work Schedule is submitted. The Consultant shall incorporate the City's comments in the Final Work Schedule.

2.4 No later than 75 days after the Notification to begin work, the Consultant shall submit to the Project Manager the Final Work Schedule. The approved Final Work Schedule will provide the baseline for determining monthly progress for the work and preparing invoices after it has been submitted and approved.



2.5 Three - Week Schedule Immediately following the Notification to begin work and throughout the Project, the Consultant shall submit to the Project Manager a rolling three-week, look-ahead schedule by every other Friday for the following three week's work. The schedule shall be time scaled in bar chart format and shall include all tasks identified in the Final Work Schedule for each Project.

3. Progress Payment Measurement Alternatives

The Consultant may propose for approval one of the following measurement alternatives for each scheduled task or Project for the purpose of calculating progress payments and reporting schedule status to the Project Manager. The Consultant shall use the alternative as approved in the work Authorization.

3.1 Submittal Status - Progress payments will be made after the submittals described in the scope of work have been delivered and approved by the Project Manager. A portion of the Fee will be allocated to each submittal.

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

3.3 Completion - Payments will be made for completed phases whose total duration is less than one month, if applicable. A finish credit of 95% of the portion of the Fee allocated to a task will be given when a task has been completed and approved.

3.4 Level of Effort - Progress payments will be based on the actual number of man-hours utilized to perform the task. The Consultant shall use the above alternatives to the maximum extent possible to measure activities such as progress for management, administration, and quality control, but in situations where such tasks do not fit within the first three alternatives, the level of effort alternative maybe used. This alternative may be used for Construction Phase Services.

The Consultant may be paid on its progress toward completing each task shown on its work schedule. Submittal of time sheets may be required concurrent with the submittal of each invoice. Payments for each task will be calculated by multiplying the task completion percentage by the portion of the lump sum fee allocated to that task.

Time sheet and expense records shall be maintained by the Consultant for all work performed under the Contract. Time sheets shall be organized and tracked separately for this Project or Additional Services Authorization in separate sets of files, maintained in



three ring binder(s). The City and the FAA shall have a right to examine and audit these during regular business hours.

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

4. Invoices and Progress Payments

4.1 If applicable, the city will provide the Consultant access to Unifier (the approved Project Management tool) to submit their monthly progress invoice. Each Project shall be measured per discipline (including reimbursable costs) and per design phase.

4.2 Each month in which an invoice is submitted the Consultant shall invoice the City for its achieved progress on each phase during the previous month based on the method of measurement alternative selected for each phase. The invoice shall be in a form acceptable to the City. The worksheets which the Consultant uses to calculate progress for each task must be included with each copy of the invoice. (The Project Manager must provide written approval of the format for these worksheets before they may be used.) One (1) electronic copy of both the invoice and the Consultant's worksheet(s) shall be submitted each month to the DEN Business Management Services Contract Administrator via email ContractAdminInvoices@flydenver.com. If Textura® is to be utilized, please see Section 4.7.

4.3 RESERVED

4.4 RESERVED

4.5 The Project Manager will review all invoices and in the event the Project Manager disagrees with the invoiced progress, he will notify the Consultant. The Consultant and Project Manager will meet to discuss the reasons for the disagreement and whether a portion of the payment for the task should be deferred. The Deputy Manager shall have the authority in his sole and absolute discretion to withhold portions of any progress payment request if he determines that the progress claimed for any task in the invoice has not been achieved.

4.6 In accordance with requirements set forth in this Agreement, the Consultant must have provided the City with the documentation found in Section 8 before any payments will be made to the Consultant.



4.7 RESERVED

5. Monthly Progress Report Development

5.1 The Consultant shall submit to the Project Manager two (2) copies of the Monthly Progress Report with its invoice. The report shall be sent digitally. This Report shall contain the following sections:

Summary

- Executive Summary
- Work Schedule
- Cost Status
- Cash Flow Requirements
- Manpower and Task Completion Variance Analysis, Achieved vs. Planned, and any Planned or Proposed Schedule or Budget Revisions or other Remedial Actions
- Subcontract and Affirmative Action Goals Status

Status of Project

- Drawing/Document Schedule and Status
- Project Schedule and Manpower Status
- Task Activities Planned for Next Month
- Monthly Task Activity and Accomplishments
- Identification and Analysis, of any Scheduling, Coordination or Other Problem Areas.
- Copies of Incoming and Outgoing Correspondence Logs

5.2 The exact format and detail level required for The Monthly Progress Report will be established jointly by the Project Manager and the Consultant within fourteen (14) days after Notification to begin work based on a proposed format prepared by the Consultant. The Report shall describe task completion status in terms of original plan, actual, a forecast of time to complete tasks and any expected task budget or schedule completion variances. The "Status of Each Project" report shall be bound (stapled) separately for each project or task.

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



6. Schedule Changes and Increases in Project Amount

6.1 Any requests for schedule change or increases in an agreed Amount shall be submitted to the City in writing and shall include an explanation and justification for the proposed schedule change or increases. All Schedule changes or increases in compensation shall be approved in advance and in writing by the City.

7. Allowable General and Administrative Overhead (Indirect Costs)

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

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

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

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

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

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

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

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

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

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



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

8. Allowable (Non-Salary) Expenses

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

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

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

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

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

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



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

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

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

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

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

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

8.11 Relocation Expenses for Key Personnel: All relocations intended to be submitted for reimbursement must be allowed by the contract terms and pre-approved by the Project Manager or his/her designee prior to incurring the expense. Unallowable relocation costs pursuant to Federal Acquisition Regulations (FAR 31.205-35) will not be reimbursed. DEN will reimburse only for actual relocation expenses evidenced by receipts. Reimbursement of relocations will be based on the approved receipts submitted up to a maximum of \$20,000.00 for each relocation. Only relocations to the Denver metropolitan area will be considered for reimbursement. Any individual relocated must work on the related Denver International Airport project for at least six (6) months after the relocation or the reimbursement of the relocation will be refunded back to the City.

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



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

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

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

9. Correspondence Control

All correspondence, including transmittals, between the Consultant and the City, subconsultants, contractors, subcontractors, major permanent material vendors, and other entities with participation in the design or construction of the Project(s) shall be serialized. The Consultant shall maintain individual incoming and outgoing correspondence logs for each entity. The Consultant may not correspond with Construction Contractors or Subcontractors or Suppliers without prior written approval by the Project Manager for each correspondence. The Consultant shall provide, at the request of the Project Manager, copies of all correspondence related to its work under the Agreement.

Upon Notification to begin work, the Consultant shall submit to the Project Manager a list of key personnel and their e-mail addresses for use in the DEN correspondence control system, Primavera Unifier. The Consultant will need to have sufficient software licenses to manage the Project which it shall immediately institute upon receipt of written approval from the Project Manager.



III. TASK ORDER- WORK ORDER

1. Introduction

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

Task Orders are typically used surrounding a Scope of Work. Work Orders are typically issued as a form of staff augmentation. In the case of Work Orders, these approved staff are embedded within Technologies teams to complete duties and responsibilities as outlined in Attachment F. Invoicing for Work Order employees shall include timecards for the period invoiced. Task Orders shall list resources and total them for each phase of the Task Order.

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

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

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

1.5 The Consultant will furnish or cause to be furnished to the Chief Executive Officer (CEO) or designee, such information as may be requested relative to the progress,



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

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

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

2. Scope, Fee Estimate, Work Schedule

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

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

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

3. Progress Payment Measurement Alternatives

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



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

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

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

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

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

4. Invoices and Progress Payments

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

4.2 RESERVED



4.3 The Project Manager and the Consultant shall agree on the day of the month the Consultant's invoices shall be submitted. By the 15th day of the month, the Consultant shall invoice the City for its achieved progress on each task during the previous 30-day period.

4.4 RESERVED

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

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

4.7 RESERVED

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

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



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

4.10 Monthly Invoice Checklist - Professional Services Agreements ([Attachment A](#)):

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

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

4.12 RESERVED

5. Monthly Progress Report Development

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

- a) Executive Summary
- b) Work Schedule



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

5.2 The exact format and detail level required for The Monthly Progress Report will be established jointly by the Project Manager and the Consultant within seven (7) days after Issuance of task order based on a proposed format prepared by the Consultant. The Report shall describe Task Order(s) completion status in terms of original plan, actual, a forecast of time to complete the Task Order(s) and any expected Task Order budget or schedule completion variances. The "Status of Task Order" report shall be formatted separately for each Task Order Scope of Work.

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

6. Schedule Changes and Increase in Project Amount

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

7. Allowable General and Administrative Overhead (Indirect Costs)

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

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

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



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

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

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

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

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

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

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

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

8. Allowable (Non-Salary) Expenses

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

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

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



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

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

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

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

8.7 Lodging Rate / Night: A maximum of the Lodging per diem for the Denver metropolitan area as published by the U.S. General Services Administration website <https://www.gsa.gov/> plus taxes per night, unless approved in advance in writing by the Project Manager or his/her designee.

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

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

8.10 Special: Including printing, equipment, express courier, delivery, rentals, etc., that is not already included in O.H. and is for the specific project or a task related to the



Agreement. All expenditures in section 8.8 submitted for reimbursement must be pre-approved by the Project Manager or his/her designee.

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

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

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

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

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

9. Summary of Contract Task Order Control

9.1 Prior to Commencement of Work – Submittals Required

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

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

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

9.1.4 Work Schedule and Task List formatting

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

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



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

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

9.3 Within 7 Days after Issuance of Task Order

9.3.1 Correspondence Control Methods and Progress Report Format

9.3.2 Invoice and Progress Payment Format

9.3.3 The Consultant shall submit their proposed Monthly Progress Report Format

9.4 Bi-Weekly Submittal

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

9.5 Monthly Submittals

9.5.1 The Consultant shall submit the Monthly Progress Report.

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

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

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

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

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

10. Information Management Format and Electronic-Mail Protocols

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



Attachment A RESERVED



Attachment C – Expense Greater than \$500 Approval Form

Date: Click here to enter a date.

Contract Name: Click here to enter text.

Contract Number: Click here to enter text. **Task Number(s) (if applicable):** Click here to enter text.

Company Name: Click here to enter text.

Employee Name: Click here to enter text.

Estimated Total Cost: \$Click here to enter text.

Reason for Expense: Click here to enter text.

To be completed by DEN personnel:

Capital Assets: £ YES £ NO

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

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

The above-described expense has been approved.

Division Director

Date

Division Sr. Vice President

Date

cc: Finance if asset purchase



Attachment D – Mileage Reimbursement Form

Date: Click here to enter a date.

Contract Name: Click here to enter text.

Contract Number: Click here to enter text. **Task Number(s):** Click here to enter text.

Company Name: Click here to enter text.

Employee Name: Click here to enter text.

Travel From: Click here to enter text.

Travel To: Click here to enter text.

Estimated Total Miles: Click here to enter text.

Estimated Total Cost: \$ Click here to enter text.

Reason for Travel: Click here to enter text.

Travel for the above named individual and purpose is approved.

Division Director Date

Division Sr. Vice President Date



Attachment E – Advance Travel Authorization Form

Date: Click here to enter a date.

Contract No.: Click here to enter text.

Traveler’s Name: Click here to enter text.

Authorization No.: Click here to enter text.

Traveler’s Employer: Click here to enter text.

Destination: Click here to enter text.

Duration: From Click here to enter a date.

To: Click here to enter a date.

Purpose of Trip: Click here to enter text.

Approximate Travel Costs: \$ Click here to enter text.

Reviewed by: _____
Division Director Date

Approved by: _____
Division Sr. Vice President Date



Attachment F – Consultant Work Order Form

Vendor Name: [Click here to enter text.](#) Contract No: [Click here to enter text.](#)
 Consultant Name: [Click here to enter text.](#) Title: [Click here to enter text.](#)
 Start Date: [Click here to enter a date.](#) End Date: [Click here to enter a date.](#)
 Bill Rate: \$ [Click here to enter text.](#) per hour (estimated at 40 hours per week)
 Overtime Rate: \$ [Click here to enter text.](#) per hour (excess of 40 hours per week and City approval required).

GENERAL STATEMENT: The Vendor shall provide a Consultant who is qualified and ready, willing, and able to provide the requested professional services to the City, in accordance with the terms of Contract Number [Click here to enter text.](#) (the “Agreement”). If any conflict should arise between this work order and the Agreement, the Agreement overrides this work order and its content. The Consultant assigned to this work order shall provide a signed non-disclosure agreement prior to start date.

1. Training Expenses: DEN will not pay for training or for hours spent in training for consultant.
2. Expense Reimbursements: DEN will not reimburse for any expenses incurred by consultant.
3. Service Sites: Unless otherwise specified in writing, the services to be performed by Consultant shall be performed at the City’s location specified above.
4. Time Tracking: All work performed by consultant shall be tracked accurately and Consultant shall submit a daily timecard upon completion of each day worked and/or completion of assigned task for approval.
5. Written Approval: All overtime (hours worked more than 40 hours per week) and work performed off-site shall be approved by City in writing prior to the work being performed.
6. Early Termination: City reserves the right to terminate this Work Order at any time and for any reason prior to the end date specified in this work order.
7. Mandatory Furlough: In the case where the City & County of Denver mandates furlough days for its personnel, Vendor agrees to match the required furlough days for Consultant and not bill DEN for the furlough days taken by the Consultant.



CONSULTANT WORK ORDER - Page 2

Vendor Name: [Click here to enter text.](#)
Consultant Name: [Click here to enter text.](#)
Start Date: [Click here to enter a date.](#)

Contract No: [Click here to enter text.](#)
Title: [Click here to enter text.](#)
End Date: [Click here to enter a date.](#)

8. Responsibilities: [Click here to enter text.](#)

9. Performance Criteria and Deliverables: Consultant’s performance will be evaluated by Client on at least a bi-annual basis, using criteria determined by the supervisor.

10. Invoicing: Vendor will invoice monthly for billable hours worked in the prior month.

Denver International Airport

Vendor Representative:

Manager, Business Management Date
Business Technologies

Signature Date

Print Name

Title

For internal use only:

Funding: [Click here to enter text.](#)

End of Exhibit E