

**AGREEMENT
R/OCIP INSURANCE BROKERAGE SERVICES**

THIS AGREEMENT FOR R/OCIP INSURANCE BROKERAGE ADVISING SERVICES (Contract No. 201628644) (“Agreement”), made and entered into as of the date set forth on the City signature page, below (the “Effective Date”), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (“City”), Party of the First Part, and **ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, INC.**, an Illinois corporation authorized to do business in the State of Colorado (“Consultant”) Party of the Second Part;

WITNESSETH:

WHEREAS, the City owns and operates Denver International Airport (“DEN” or the “Airport”), and will require professional consulting services to assist the Airport in obtaining one or more Rolling Owner-Controlled Insurance Policies (“R/OCIP”), and other work as requested and authorized by the Airport; and

WHEREAS, the City has undertaken a competitive process to solicit and receive proposals for such services. The City issued Request for Proposal Number 201628644 on June 14, 2016 (the “RFP”) and Addendum No. 1 to the RFP on June 24, 2016. Consultant submitted its Response to the RFP and Addendum No. 1 on July 12, 2016 (“Consultant’s Proposal”). The RFP, Addendum No. 1 and Consultant’s Proposal are incorporated herein by reference. The City has selected the Consultant’s Proposal as the best responsive proposal for the services to be provided under this Agreement; and

WHEREAS, the Consultant is qualified and ready, willing and able to provide the requested professional services to the City, in accordance with the terms of this Agreement.

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

1. LINE OF AUTHORITY:

The City's Chief Executive Officer for the Department of Aviation, or his or her designee or successor in function (hereinafter referred to as the “CEO”) authorizes and directs all work performed under this Agreement. Until otherwise notified by the CEO, the City's Senior Vice President for Business Operations (“SVP”) is designated as the authorized representatives of the CEO through whom services performed under this Agreement shall be directed and coordinated. The SVP has designated the Airport’s Risk Manager, Kate Tremblay, as the Project Manager under this Agreement. Administrative reports, memoranda, correspondence and other submittals required of the Consultant shall be processed in accordance with the Project Manager's directions.

2. SCOPE OF WORK:

A. General: The Consultant shall, upon receipt of a written Notice to Proceed from the City, commence the Work as authorized by the City and shall furnish all of the technical, administrative, professional and other labor; all supplies and materials, equipment, printing, vehicles, local travel, office space and facilities, testing and analyses, calculations, and any other facilities or resources required to perform the services, complete the Work and produce all of the deliverables described and set forth in this Agreement, including the attached **Exhibit A**, “Scope of Work” (also referred to as the “Work”) and all of the other exhibits, appendices and attachments to this Agreement.

B. Professional Responsibility; Standard and Remedies:

1. Consultant's Performance: The Consultant shall faithfully perform the Work required under this Agreement in accordance with standards of care, skill, training, diligence and judgment provided by competent professionals who perform work of a similar nature to the Work described in this Agreement. Consultant shall provide to the City in a timely manner all designs, documents, submittals and services necessary to achieve completion of the Work in accordance with schedules established by the City for authorized Work.

2. Acts and Omissions: The Consultant shall be liable to the City for acts and omissions of Consultant’s employees, subcontractors, agents and any other party with whom the Consultant contracts to perform any portion of the Work.

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

3. COMPENSATION AND PAYMENT:

A. Fee: The City hereby agrees to pay the Consultant, and the Consultant agrees to accept as its sole compensation for its services rendered under this Agreement an amount based on the rates and charges set forth in **Exhibit B**, not to exceed the Maximum Contract Amount, as authorized by the City in writing under this Contract.

B. Scheduling, Progress Reports and Invoices: Payments shall be made to Consultant based upon periodic invoices and receipts submitted by Consultant, which invoices have been approved by City, and subject to the maximum contract liability. The Consultant agrees that City shall not be liable for the payment of taxes, late charges, interest or penalties of any nature, except for any additional amounts that the City may be required to pay under the City’s prompt payment ordinance D.R.M.C. § 20-107, *et seq.*.

The City reserves the right to reject and not pay any invoice or part thereof where the CEO determines that the amount invoiced to date exceeds the amount which should be paid based upon its determination of the Work which has been performed. The City, however, shall pay any undisputed items contained in the invoice. Disputes concerning payments under the provisions of this contract shall be resolved by administrative hearing pursuant to the procedures of Section 5-17, Revised Municipal Code.

Invoices shall include documentation consistent with the progress payment measurement alternative utilized for the Work performed, including the following where applicable:

- (1) A brief status report which describes the progress of the Work and a summary of the authorized Work performed during the period covered by the invoice.
- (2) A statement of hours spent where billing is based upon hourly rates. Time sheets shall be maintained by the Consultant and shall be available for examination by the City, at City request.
- (3) The amounts shown on the invoices shall comply with and clearly reference the relevant authorization of Work by the SVP, the hourly rate where applicable, and allowable reimbursable expenses.
- (4) The Consultant shall submit itemized business expense logs or copies of receipts for all allowable reimbursable expenses, where billing is based upon such items.
- (5) The signature of an officer of the Consultant, along with such officer's certification that it has examined the invoice and has found it to be correct, shall be included on all invoices.

C. Carry Over and Carry Back: If the Consultant's total fees for any phase of the Work authorized by the City shall be less than the amount budgeted above for such phase, then the amount by which the budget exceeds the fee may be used, with the written approval of the SVP, to pay fees for services rendered in any other phase if in the SVP's judgment such additional fees are reasonable and appropriate. However, such revision of the fees budgeted and payable for any project phases shall be subject to and shall not alter the maximum fee amount set forth above.

D. Additional Services: The Consultant may also perform services, hereinafter referred to as "Additional Services," which relate to the subject matter of this Agreement, but which the SVP determines to be not described in the Scope of Work or in excess of the requirements of the Scope of Work. The Consultant shall be compensated for such Additional Services only if the services and the amount of fees and reimbursable expenses for the services have been authorized in writing in advance by the SVP, in accordance with the billing rates set out in **Exhibit A**. The total amount of fees and reimbursable expense costs for Additional Services shall not cause this Agreement to exceed the Maximum Contract Liability set forth herein, and in

no event shall the approval of Additional Services and the cost of performing them be deemed to constitute an agreement by the City to an increase in the Maximum Contract Liability.

4. MAXIMUM CONTRACT LIABILITY; FUNDING:

A. Any other provision of this Agreement notwithstanding, in no event shall the City be liable for payment for services rendered and expenses incurred by the Consultant under the terms of this Agreement for any amount in excess of the sum of Forty Million Dollars (\$40,000,000.00). The Maximum Contract Liability may only be increased by amendment to this Agreement.

B. Payment under this Agreement shall be paid from the City's Airport System Capital Improvement and Replacement Fund and/or from the City's Airport System Operation and Maintenance Fund. The City has no obligation to make payments from any other source, nor to issue additional revenue bonds to satisfy such costs. The City is not under any obligation to make any future encumbrances or appropriations for this contract nor is the City under any obligation to amend this Agreement to increase the Maximum Contract Liability above.

5. TERM:

The Term of this Agreement shall commence on the Effective Date stated above, and shall terminate five (5) years thereafter ("Term"), unless sooner terminated by the CEO. The Term may only be increased by amendment to this Agreement, subject to the following exception: if the Term will expire prior to the completion by the Consultant of all Work previously authorized by the City and commenced by the Consultant, in the City's sole discretion this Agreement shall remain in full force and effect for an additional period of time sufficient to permit completion of any such Work. The Consultant shall accept such an extension so that the requirements of this Agreement can be fulfilled.

6. SUBCONTRACTORS:

A. Although the Consultant may retain, hire and contract with outside subcontractors, no final agreement or contract with any such subcontractor shall be entered into without the prior written consent of the SVP or his authorized representative. Requests for such approval must be made in writing and include a description of the nature and extent of the services to be provided, the name, address and professional experience of the proposed subcontractor, and any other information requested by the SVP. Any final agreement or contract with an approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make any claim of payment against the City or to file or claim any lien or encumbrance against any City property arising out of the performance or non-performance of the contract.

B. Because the Consultant's represented professional qualifications are a consideration to the City in entering into this Agreement, the CEO shall have the right to reject any proposed

outside subcontractor deemed by him, in his sole discretion, to be unqualified or unsuitable for any reason to perform the proposed services, and the SVP shall have the right to limit the number of outside subcontractors or to limit the percentage of Work to be performed by them, all in his sole and absolute discretion.

C. The Consultant shall not retain any subcontractor to perform work under this Agreement if the Consultant is aware, after a reasonable written inquiry has been made, that the subcontractor is connected with the sale or promotion of equipment or material which is or may be used on work related to or following on from this Agreement, or that any other conflict of interest exists.

7. PERSONNEL ASSIGNMENTS:

The Consultant shall assign a Project Manager for this Project. The Consultant's Project Manager shall be the contact person in dealing with the City's Project Manager on matters concerning this Project and shall have the full authority to act for the Consultant's organization and at the direction of the SVP or the City's Project Manager. Consultant's designated Project Manager shall remain assigned on this contract during the entire contract term, while in the employ of the Consultant, or, until such time that his performance is deemed unsatisfactory by the City and a formal written request is submitted which requests the removal of the Consultant's Project Manager.

8. STATUS OF CONSULTANT:

It is agreed and understood by and between the parties hereto that the status of the Consultant shall be that of an independent Consultant retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.1 (E)(x) of the Charter of the City and County of Denver, and it is not intended, nor shall it be construed, that the Consultant or its personnel are employees or officers of the City under Chapter 18 of the Revised Municipal Code for any purpose whatsoever.

9. NO AUTHORITY TO BIND CITY TO CONTRACTS:

The Consultant has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City as required by Charter and Ordinance.

10. ASSIGNMENT:

The Consultant shall not assign, pledge or transfer its duties and rights under this Agreement, in whole or in part, without first obtaining the written consent of the CEO. Any attempt by the Consultant to assign or transfer its rights hereunder without such prior written consent shall, at the option of the CEO, automatically terminate this Agreement and all rights of the Consultant hereunder. Such consent may be granted or denied at the sole and absolute discretion of the CEO.

11. CONFLICT OF INTEREST:

The Consultant agrees that it and its subsidiaries, affiliates, subcontractors, principals, or employees will not engage in any transaction, activity or conduct which would result in a conflict of interest. The Consultant 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 Consultant by placing the Consultant's own interests, or the interest of any party with whom the Consultant has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement if such a conflict exists, after it has given the Consultant written notice which describes such conflict. The Consultant shall have thirty (30) days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

12. NO DISCRIMINATION IN EMPLOYMENT:

In connection with the performance of work under this Agreement, the Consultant agrees not to fail or refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Consultant further agrees to insert the foregoing provision in all subcontracts hereunder.

13. PROHIBITION AGAINST EMPLOYMENT OF ILLEGAL ALIENS:

A. This Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes, and as amended hereafter (the "Certification Statute") and the Consultant is liable for any violations committed by Consultant as provided in the Certification Statute.

B. By signing this Agreement, the Consultant certifies that, at the time of signing, it does not knowingly employ or contract with an illegal alien who will perform the work under this Agreement, and that it will participate in either the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., or the employment verification program established by the Colorado Department of Labor and Employment under § 8-17.5-102(5)(c), C.R.S. (the "Department Program") to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

C. The Consultant also agrees and represents that:

1. It shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

2. It shall not enter into a contract with a subcontractor or subconsultant that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

3. It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in either the E-Verify Program or the Department Program.

4. It is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Agreement.

5. If it obtains actual knowledge that a subcontractor or subconsultant performing work under this Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor or subconsultant and the Owner within three (3) days. The Consultant will also then terminate such subcontractor or subconsultant if within three (3) days after such notice the subcontractor or subconsultant does not stop employing or contracting with the illegal alien, unless during such three-day period the subcontractor or subconsultant provides information to establish that the subcontractor or subconsultant has not knowingly employed or contracted with an illegal alien.

6. It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S.

14. PROMPT PAY

The Consultant is subject to D.R.M.C. Section 20-112 wherein the Consultant is to pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven (7) days after receipt of any payment from City. Any late payments are subject to a late payment penalty as provided for in the prompt pay ordinance (Section 20-107 through 20-118).

15. INSURANCE:

A. The Consultant shall obtain and keep in force during the entire term of this Agreement, including any warranty periods, all of the minimum insurance coverage forms and amounts set forth in **Exhibit C**, which is incorporated into this Agreement by this reference. The Consultant shall submit to the City fully completed and executed certificates of insurance (ACORD form or equivalent approved by the City) which specifies the issuing company or companies, policy numbers and policy periods for each required form of coverage. Proof of insurance must be submitted to the City at the time the Consultant signs this Agreement.

B. All certificates and any required endorsements must be received and approved by the City before any work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project, including any warranty periods. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of the Agreement. All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Consultant. Consultant shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. The City reserves the right to request copies of these certificates at any time.

C. All certificates required by this Agreement shall be sent directly to Denver International Airport, Business & Technologies, Airport Office Building, Room 8810, 8500 Pena Boulevard, Denver, Colorado 80249. The City project/Agreement number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

D. The City's acceptance of any submitted insurance certificate is subject to the approval of the City's Risk Management Administrator. All coverage requirements specified in the certificate shall be enforced unless waived or otherwise modified in writing by the City's Risk Management Administrator.

E. The Consultant shall comply with all conditions and requirements set forth in the insurance certificate for each required form of coverage during all periods in which coverage is in effect.

F. The insurance coverage forms specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Consultant. The Consultant shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

G. The parties hereto understand and agree that the City and County of Denver, its officers, officials and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the City and County of Denver, its officers, officials and employees.

16. DEFENSE AND INDEMNIFICATION:

A. To the fullest extent permitted by law, the Consultant 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 related to the work performed under this

Agreement that are due to the negligence or fault of the Consultant or the Consultant's agents, representatives, subcontractors, or suppliers ("Claims"). This indemnity shall be interpreted in the broadest possible manner consistent with the applicable law to indemnify the City.

B. Consultant'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 suit has been filed and even if Consultant is not named as a Defendant.

C. Consultant will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Consultant under the terms of this indemnification obligation. The Consultant shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

17. COORDINATION OF SERVICES:

The Consultant agrees to perform its work under this Agreement in accordance with the operational requirements of DEN, and all work and movement of personnel or equipment on areas included within the DEN site shall be subject to the regulations and restrictions established by the City or its authorized agents.

18. COMPLIANCE WITH ALL LAWS AND REGULATIONS:

All of the work performed under this Agreement by the Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado, the charter, ordinances and rules and regulations of the City and County of Denver, and all Denver International Airport Rules and Regulations.

19. COMPLIANCE WITH PATENT, TRADEMARK AND COPYRIGHT LAWS:

A. The Consultant agrees that all work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States. The Consultant will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission and all releases and other necessary documents. If the Consultant prepares any design documents which specify any material, equipment, process or procedure which is protected, the Consultant shall disclose such patents, trademarks and copyrights in the construction drawings or specifications.

B. The Consultant further agrees to release, indemnify and save harmless the City, its officers, agents and employees, pursuant to Paragraph 16, "Indemnification," from any and all

claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which infringes upon any patent, trademark or copyright protected by law, except in cases where the Consultant's personnel are working under the direction of City personnel and do not have direct knowledge or control of information regarding patents, trademarks, and copyrights.

20. TAXES AND COSTS:

The Consultant, at its own expense, shall promptly pay, when due, all taxes, bills, debts and obligations it incurs performing work under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against land, facilities or improvements owned by the City.

21. OWNERSHIP OF WORK PRODUCT:

All plans, drawings, reports, other submittals, and other documents submitted to the City or its authorized agents by the Consultant shall become and are the property of the City, and the City may, without restriction, make use of such documents and underlying concepts as it sees fit. The Consultant shall not be liable for any damage which may result from any use of such documents for purposes other than those described in this Agreement.

22. ADVERTISING AND PUBLIC DISCLOSURES:

The Consultant shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the CEO. Any oral presentation or written materials related to DEN shall include only presentation materials, work product, and technical data which have been accepted by the City, and designs and renderings, if any, which have been accepted by the City. The CEO shall be notified in advance of the date and time of any such presentations. Nothing herein, however, shall preclude the Consultant's use of this contract and its component parts in GSA form 254 or 255 presentations, or the transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO, any member or members of City Council, and the Auditor.

23. COLORADO OPEN RECORDS ACT:

The Consultant acknowledges that the City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes §24-72-201 et seq., and the Consultant agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such act for the disclosure of any materials or information which the Consultant asserts is confidential and exempt from disclosure. Any other provision of this Agreement notwithstanding, including exhibits, attachments and other documents incorporated into this Agreement by reference, all materials, records and information provided by the Consultant to the City shall be considered confidential by the City only to the extent provided in the Open Records Act, and the Consultant agrees that any

disclosure of information by the City consistent with the provisions of the Open Records Act shall result in no liability of the City.

24. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:

The Consultant and Consultant's agents shall cooperate and comply with the provisions of the City and County of Denver Executive Order No. 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City's barring the Consultant and Consultant's agents from City facilities or participating in City operations.

25. CITY SMOKING POLICY:

Consultant acknowledges that smoking is not permitted in Airport buildings and facilities except for designated Airport Smoking Concessions, and so agrees that it will prohibit smoking by its employees and the public in indoor areas and within fifteen (15) feet of entryways of the Airport Premises, except as may otherwise be permitted by the Colorado Clean Indoor Air Act, C.R.S. §§ 25-14-201 to 209. Consultant and its officers, agents, and employees shall cooperate and comply with the provisions of the Denver Revised Municipal Code, §§ 24-301 to 317 et. seq., the Colorado Clean Indoor Air Act, C.R.S. §§ 25-14-201 to 209, City's Executive Order No. 99 dated December 1, 1993, and Executive Order No. 13 dated July 31, 2002.

26. EXAMINATION OF RECORDS:

A. The Consultant agrees that the City's duly authorized representatives shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the Consultant involving this Agreement to audit or review said books, documents, papers and records to assure they are in compliance with the terms and conditions of this Agreement.

B. In connection with any services performed hereunder the CEO, the City Auditor and any other authorized official of the City and County of Denver, the Federal Aviation Administration, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Consultant which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. The Consultant further agrees that such records will contain information concerning the personnel, hours and specific tasks performed, along with the applicable federal project number.

27. INFORMATION FURNISHED BY CITY:

The City will furnish to the Consultant available information concerning DEN and any such other matters that may be necessary or useful in connection with the work to be performed by the Consultant under this Contract. The Consultant shall be responsible for the verification of the information provided to the Consultant.

28. CITY REVIEW OF PROCEDURES:

The Consultant agrees that, upon request of the SVP, at any time during the term of the Agreement or three (3) years thereafter, it will make full disclosure to the City of the means, methods, and procedures used in performance of services hereunder.

29. TERMINATION:

A. The City has the right to terminate this Agreement without cause on thirty (30) days written notice to the Consultant, and with cause on ten (10) days written notice to the Consultant. However, nothing herein shall be construed as giving the Consultant the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the CEO.

B. If the Consultant is discharged before all the services contemplated hereunder have been completed, or if the Consultant's services are for any reason terminated, stopped or discontinued because of the inability of the Consultant to provide service under this Agreement, the Consultant shall be paid only for those services satisfactorily performed prior to the time of termination.

C. If this Agreement is terminated, the City shall take possession of all materials, equipment, tools and facilities owned by the City which the Consultant is using by whatever method it deems expedient, and the Consultant shall deliver to the City all drafts or other documents it has completed or partially completed under this Agreement, together with all other items, materials and documents which have been paid for by the City, and these documents and materials shall be the property of the City.

D. Upon termination of this Agreement by the City, the Consultant shall have no claim of any kind whatsoever against the City by reason of such termination or by reason of any act incidental thereto, except as follows: if the termination is for the convenience of the City the Consultant shall be entitled to reimbursement for the reasonable cost of the Work to the date of termination, including multiplier, and reasonable costs of orderly termination, provided request for such reimbursement is made no later than six (6) months from the effective date of termination. The Consultant shall not be entitled to loss of anticipated profits or any other consequential damages as a result of any such termination for convenience, and in no event shall the total sums paid exceed the Contract Amount.

30. SURVIVAL OF CERTAIN CONTRACT PROVISIONS:

The parties understand and agree that all terms and conditions of this Agreement, including any warranty provision, which by reasonable implication contemplate continued performance or compliance beyond the termination of this Agreement (by expiration of the term or otherwise) shall survive such termination and shall continue to be enforceable as provided herein.

31. NOTICES:

Notwithstanding any other provision of this Agreement, notices concerning termination of this Agreement, notices of alleged or actual violations of the terms of this Agreement, and other notices of similar importance shall be made as follows:

by Consultant to: Chief Executive Officer - Aviation
Denver International Airport
8500 Peña Boulevard, 9th Floor
Denver, Colorado 80249-6340

And by City to: Arthur J. Gallagher Risk Management
Services, Inc.
6300 Syracuse Way, Suite 700
Centennial, CO 80111
Attention: Karen Graham

Said notices shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification thereof.

32. RIGHTS AND REMEDIES NOT WAIVED:

In no event shall any payment by the City hereunder constitute or be construed to be a waiver by the City of any breach of covenant or default which may then exist on the part of the Consultant, and the making of any such payment when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the City 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.

33. NO THIRD PARTY BENEFICIARIES:

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the City and the Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention

of the City and the Consultant that any person other than the City or the Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

34. GOVERNING LAW; BOND ORDINANCES; VENUE

A. This Agreement is made under and shall be governed by the law of Colorado. Each and every term, provision or condition herein is subject to the provisions of Colorado law, the Charter of the City and County of Denver, and the ordinances and regulations enacted pursuant thereto.

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

C. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

35. PARAGRAPH HEADINGS

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

36. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

This Agreement consists of Sections 1 through 44 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference (the "Contract Documents"):

Appendix:	Federal Aviation Administration Required Contract Provisions
Exhibit A:	Scope of Work
Exhibit B:	Cost Proposal
Exhibit C:	Insurance Minimum Requirements
	Request for Proposal Number 201628644 and Addendum 1 (Incorporated by Reference)
	Consultant's Response to Request for Proposal Number 201628644 (Incorporated by Reference)

In the event of an irreconcilable conflict between a provision of Sections 1 through 44 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 - Federal Aviation Administration Required Contract Provisions
Sections 1 through 44 hereof

Exhibit A
Exhibit B
Exhibit C
Request for Proposal Number 201628644 and Addendum No. 1
Consultant's Response to Request for Proposal Number 201628644 and Addendum No. 1

37. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS

This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement properly executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

38. 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.

39. FORCE MAJEURE:

Neither party shall be liable for any failure to perform any of its obligations hereunder due to or caused by, in whole or in part, fire, strikes, lockouts, unusual delay by common carriers, unavoidable casualties, war, riots, acts of terrorism, acts of civil or military authority, acts of God, judicial action, or any other causes beyond the control of the parties. Both parties shall have the duty to take reasonable actions to mitigate or prevent further delays or losses resulting from such causes.

40. ADMINISTRATIVE HEARING:

Disputes arising under or related to this Agreement or the services which are the subject of this Agreement shall be resolved by administrative hearing which shall be conducted in accordance with the procedures set forth in Section 5-17, Revised Municipal Code of the City and County of Denver. The parties hereto agree that the CEO's determination resulting from said administrative hearing shall be final, subject only to the Consultant's right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

41. FEDERAL PROVISIONS:

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. The Federal Aviation Administration Required Contract Provisions are attached hereto and are incorporated herein by reference.

42. SEVERABILITY; ENTIRE AGREEMENT:

If any part, portion or provision of this Agreement shall be found or declared null, void, or unenforceable for any reason whatsoever by any court of competent jurisdiction or any governmental agency having applicable authority, only such part, portion, or provision shall be affected thereby and all other parts, portions and provisions of this Agreement shall remain in full force and effect. The Contract Documents form the entire agreement between the parties and are fully binding on the parties. No oral representations or other agreements have been made except as specifically stated in the Contract Documents.

43. PREVAILING WAGE:

Consultant shall comply with the City's Prevailing Wage Ordinance, Section 20-76 *et seq.* of the Denver Revised Municipal Code ("D.R.M.C."), as such Ordinance applies to Consultant's activities under this Agreement. The Contractor is prohibited from hiring any subcontractor that is currently debarred by the City in accordance with D.R.M.C § 20-77.

44. CITY EXECUTION OF AGREEMENT:

This Agreement is expressly subject to and shall not be or become effective or binding on the City until it has been approved by City Council, if so required by law, and fully executed by all signatories of the City and County of Denver.

[SIGNATURES ON FOLLOWING PAGE]

Contract Control Number:

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

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

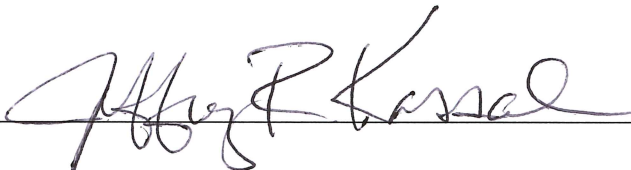
By _____

By _____



Contract Control Number: PLANE-201628644-00

Contractor Name: ARTHUR J GALLAGHER RISK MGMT SVCS,
INC.

By: 

Name: JEFFREY R. KASSAL
(please print)

Title: AREA PRESIDENT
(please print)

ATTEST: [if required]

By: 

Name: Karen Graham
(please print)

Title: Area Executive V.P.
(please print)



Federal Aviation Administration Required Contract Provisions

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 Number PLANE 201628644**

A. Title VI Clauses for 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.

B. 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).

C. FAIR LABOR STANDARDS ACT

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.

D. OCCUPATIONAL SAFETY AND HEALTH ACT

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.



EXHIBIT A

Denver International Airport

R/OCIP Insurance Broker and Administration Services

Scope of Work



Scope of Work

Rolling Owner Controlled Insurance Program – Potential Projects – 2017 - 2021

Beginning in 2017, Denver International Airport will embark on another major construction program. This program will involve traditional renovation and expansion projects, airfield work, work on Pena Boulevard, expansion of Concourse A, and major work within the Great Hall. Note this list is fluid and only meant to be representative of types and volumes of construction to be completed between 2017-2021.

1. Traditional Airport Projects: Remodel customer facing facilities, expand concession programs and facilities, Boiler and Cooling Tower repairs and enhancements, roadway erosion control, electrical transformer replacement. Estimated Construction Value: \$200 million.
2. Airfield Work: Taxiway apron slab rehabilitation, runway pavement and lighting rehabilitation, airfield service road repairs. Estimated Construction Value: \$116 million
3. Pena Boulevard: Widening, reconfiguration and existing pavement rehabilitation. Estimated Construction Value: \$146 million
4. Concourse A West Expansion: Paving, aprons, and gate construction. Estimated Construction Value: \$407 million
5. Great Hall: Retooling of Level 6, where long stretches of counters in the passenger ticketing areas sit empty. Relocate the massive TSA security checkpoint area dominating Level 5. In addition, reconfigure airline counter and passenger ticketing areas. The areas being considered for redevelopment make up 435,546 square feet of the Great Hall's total 815,546-square-foot area. Estimated Construction Value: \$440 Million

Service requirements include but are not limited to the following:

A. R/OCIP Brokerage Services

1. Perform a site review and gather data necessary to prepare a comprehensive underwriting submission to R/OCIP insurance markets.
2. Work with DEN and its consultant to develop a final R/OCIP marketing specification providing the broadest available protection and appropriate extensions of coverage at the most economical price. Present these specifications to qualified insurance markets following final review and approval of DEN prior to market release.



3. Evaluate R/OCIP insurer proposals and identify the best R/OCIP insurance solutions including appropriate coverage, policy limits, and risk-financing structure. Provide a written proposal to DEN and its consultant outlining terms and conditions presented in all insurer proposals received and highlighting the most qualified insurers.
4. Schedule interviews with the most qualified R/OCIP insurers. Work with DEN and its representatives in identifying the best primary insurer to provide coverage. Negotiate terms and conditions with excess liability underwriters to obtain the most beneficial and cost-effective R/OCIP available to DEN.
5. Obtain insurance quotations for additional construction-related insurance coverages outside the R/OCIP as needed such as builder's risk, design professional liability, pollution liability and any other coverages as requested by DEN.
6. Verify the accuracy of rates and premiums. Assist in establishing estimated costs, payrolls, and hard cost construction value for premium calculations.
7. Review all insurer audits and verify their accuracy.
8. Verify wording on policies, binders, certificates, endorsements or other documents when they are received. Confirm that all negotiated coverage enhancements are provided and obtain revisions in such documents when needed.
9. Promptly submit originals of all policies and endorsements to DEN with copies to its consultant.
10. Oversee and coordinate all services provided by R/OCIP underwriters and insurance service providers.
11. Assure that all coverages are placed with financially stable insurers.
12. Provide assistance with project close out including audit of final costs, verification of outstanding liabilities, and recovery of unused loss funds.

B. R/OCIP Administration

13. Assure that the R/OCIP program complies with all relevant laws and regulations, including reporting, contractor safety screening and establishment of required programs.
14. Determine and communicate eligibility for enrollment for all construction contractors in the R/OCIP.
15. Establish and communicate close out procedures for the R/OCIP



- 16.** Work with DEN and its consultant to prepare and distribute an R/OCIP manual to all enrolled contractors and pre-bid materials explaining the R/OCIP to prospective bidders.
- 17.** Explain the R/OCIP to contractors and provide assistance in preparing forms and completing the insurance cost identification worksheet. Attend pre-bid conferences and pre-construction meetings to explain the program and answer questions.
- 18.** Review contractor enrollment documents including insurance cost calculation worksheets to verify contractors have removed insurance costs from the bids as appropriate. Account for savings to DEN and prepare periodic reports reflecting accumulated savings. Participate in discussions with contractors as required to assure that proper insurance costs are deducted from bids and all change orders.
- 19.** Obtain required payroll information from contractors on a monthly basis and follow up with contractors to obtain delinquent or missing payroll reports.
- 20.** Issue certificates of insurance for general liability and policies for workers' compensation to all enrolled construction contractors.
- 21.** Issue evidence of insurance as required to third parties.
- 22.** Assure that all required workers' compensation reports are submitted to appropriate agencies.
- 23.** At contractor enrollment, verify compliance by contractor and all other parties including consultants, with insurance requirements for exposures outside the R/OCIP (e.g., automobile liability, off-site general liability, professional liability etc.).
- 24.** Meet with DEN or other designated representative no less than quarterly to discuss R/OCIP administration issues, claims, safety, loss trends and other matters affecting the R/OCIP.
- 25.** Attend occasional meetings with management or other persons as requested.
- 26.** Work with DEN staff and its consultant to prepare an annual stewardship report, including a summary of past activity, action plans, and anticipated goals for the coming contract period before the beginning of each year of service, including at a minimum:
 - Insured program earned premiums and incurred losses by year by coverage line,
 - Identified problem areas such as claim handling, safety hazards, uninsured risks, etc.,



- Services performed and planned,
 - Safety statistics such as DART rate, loss rate, and TCIR
 - Program Savings as verified by identification of contractor-removed insurance costs in construction bids.
- 27.** Maintain confidential all information provided pursuant to the contract, and return any written, computer-generated or other tangible documentation or proprietary information to DEN upon request or at the termination of the contract. Administrator shall not permit reproduction or use of confidential information except as authorized by DEN. Documents generated, provided or prepared on behalf of DEN are the property of DEN and must be turned over to DEN upon request in the form(s) requested (i.e., on diskette, paper, or otherwise).
- 28.** Inform DEN immediately of any proposed changes of the individuals assigned to the administration unit and provide the qualifications of the prospective individuals. Such changes shall be made subject to agreement with DEN.
- 29.** Recommend appropriate contractor deductible obligations for each line of coverage; identify loss situations in which such deductibles shall apply; invoice contractors for appropriate deductible obligations; pursue to the extent necessary and recover deductible amounts from contractors and submit recovery checks to DEN.
- 30.** Ensure the R/OCIP insurer provides accurate claims and payroll information by individual contractor to the State Worker's Compensation Rating Bureau for promulgation of EMRs. Develop a system to assure that claims are assigned to the contractor involved in the loss and to avoid claim allocation errors.
- 31.** At program end, prepare a closeout report documenting savings and success of the R/OCIP. In addition, the administrator shall perform the following:
- Obtain final payroll information
 - Assist in resolving all outstanding claims
 - Audit any return premium calculation
 - Assist in any negotiations with insurers regarding reserves even though claim closures may occur long after project completion or broker services contract expiration.
 - Assist in reduction of the letter of credit or return of collateral even after project completion or broker services contract expiration.

C Loss Control Services

- 32.** Work with DEN, the program manager, and the construction managers on developing a comprehensive loss control program for the R/OCIP. Review



contractor site-specific safety plans and determine that contractor site safety plans meet or exceed the minimum requirements of the master safety plan including all appropriate laws and regulations. Conduct periodic meetings with contractor and program manager-provided safety personnel to coordinate the safety effort for the various projects enrolled in the R/OCIP.

33. Provide an on-site safety coordinator to conduct twice each month: site inspections, issue inspection reports, monitor recommendations and conduct specialized contractor training as needed, based on identified exposures or losses throughout the five year contract. The on-site safety coordinator must be an experienced loss control professional with a minimum 5 years on-site R/OCIP experience. These required activities and site visits are in addition to any safety services provided by the R/OCIP insurer.
34. Review and comment on insurer loss control activities and oversee their safety activities to ensure contracted services are being conducted as appropriate.
35. Monitor loss runs to identify developing loss trends. Recommend corrective action as appropriate. Regularly calculate and communicate safety statistics to DEN and its consultant such as DART rate, loss rate, and TCIR.
36. Identify the need for and provide a resource for safety training programs for contractor personnel. Examples include but are not limited to confined space entry, crane operation, personal protective equipment use, and others.
- 37.

D Risk Management Information Systems

38. Maintain accurate R/OCIP administration data on an accident date basis and provide DEN with a monthly status report to include the following:
 - Rosters of enrolled and non-enrolled contractors, including start-up and completion dates and identifying general-subcontractor relationships,
 - Payroll and man hours by contractor,
 - A compliance exception report identifying contractors not submitting required payroll, insurance compliance, enrollment or closeout forms,
 - A report of contractor insurance credits as calculated from the insurance cost identification worksheets,
 - *Applied deductibles and recoveries (by contractor and for third parties).
39. Provide any training to DEN staff or its consultant pertaining to the RMIS system utilized for the project.



E Claims

- 40.** Develop and implement R/OCIP claim reporting procedures. Assist the R/OCIP insurers in the timely adjustment and settlement of claims and losses and advise DEN on coverage application to specific loss situations.
- 41.** Inform DEN and its consultants of all new claims or changes in reserves for all workers' compensation and general liability losses.
- 42.** Provide monthly loss information in an acceptable format to DEN and its consultant.
- 43.** Provide, or assure that the R/OCIP insurer provides, workers' compensation claim management services to include designated nearby medical providers, case management, crisis management, rehabilitation and other services.
- 44.** Provide third-party recovery and subrogation management to the extent losses occur within any self-insured retention or program deductible.
- 45.** Manage all claims related to the R/OCIP from claim inception to final closure even though claim closures may occur long after project completion or broker services contract expiration.
- 46.** Organize and conduct semi-annual claim reviews with DEN risk and appropriate construction contractors who have outstanding losses.

It is DEN's desire the chosen R/OCIP Broker/Administrator provide support services through the closeout of the R/OCIP including potential claims activity under the completed operations portion of the coverage. It is anticipated that this period will extend out to the statute of repose which is 8 years in the State of Colorado.

Denver International Airport

COMPENSATION PROPOSAL

Response to Request for Proposal
OCIP-ROCIP Insurance Broker And Administrative
Services 201628644

Presented: July 12, 2016



Arthur J. Gallagher & Co.

Arthur J. Gallagher National Construction Headquarters
1255 Battery Street, #450
San Francisco, CA 94111
415.288.1620
www.ajg.com

Arthur J. Gallagher Risk Management Services, Inc.
6399 S. Fiddlers Green Circle, Suite 200
Greenwood Village, CO 80111
303.773.9999
www.ajg.com

CONFIDENTIAL

Gallagher's compensation proposal recognizes the need for flexibility yet adequate compensation to ensure the R/OCIP will be managed professionally. We believe this approach is fair to you and to us. We are of course open to further discussion and fine tuning of this fee approach and could be open to considering other options.

Our proposed fee structure is as follows for the projects:

1. Gallagher will be compensated on a fee basis based on the Scope of Work as specified in the RFP.
2. This fee covers all basic R/OCIP coverages selected including General Liability, Excess Liability and Workers Compensation.
3. On the ancillary coverages required, Gallagher will be paid a capped commission on those specific policies.
4. The fee will be billed in quarterly installments over the term of the R/OCIP Program, currently through 2021 unless otherwise agreed. The fee is based on the initial estimated construction values and will be adjusted upwards or downwards depending on the final audited CVs placed in the program.
5. Gallagher's service proposal is to include all services performed during the R/OCIP program term and the eight-year tail period for Completed Operations or the close-out of the R/OCIP, whichever occurs earlier. It is important to recognize that once the projects are completed, Gallagher must continue to provide services necessary to close out the R/OCIP including monitoring all pending claims.
6. Additional Loss Control Services can be added and the cost will vary depending on the scope of services and the frequency. To the extent additional loss control services are required, other than those set forth in the proposal, we charge \$125 per hour for services rendered.
7. Gallagher will agree to begin the marketing work without compensation prior to approval of our contract by the City. Once the contract is signed, we will bill the fee on a quarterly basis or on an alternate billing schedule as negotiated with DEN.

This fee structure includes all services outlined in the response to RFP. We will fully disclose all other income earned by any wholesale brokers used.

Following is Exhibit B – Cost Proposal as required.

Exhibit B – Cost Proposal

A. Proposed Rate, per \$100 Construction Value, for Scope of Work Items A – E Outlined in this RFP

Construction Value Range	Proposed Rate, Per \$100 Construction Value
Construction Value = \$400M - 500M	\$.145 (\$725,000)
Construction Value = \$501M - \$750M	\$.125 (\$937,500)
Construction Value = \$751M – \$1B	\$.125 (\$1,250,000)
Construction Value = \$1B - \$1.5B	\$.100 (\$1,500,000)
Construction Value = \$1.5B - \$2B	\$.100 (\$2,000,000)

B. Proposed Capped Commission on Ancilliary Placements

Ancilliary Coverage	Proposed Capped Commission
Builder’s Risk	6%
Contractors Pollution Liability	6%
Owner’s Protective Professional Indemnity	6%

C. Comments About Marketing “At Risk”:

Gallagher agrees to market at risk with no commission until such time as the City Council approves the broker services agreement which we would expect to occur within 90 days of broker selection. After 90 days if no approval has been granted, we reserve the right to renegotiate this item.

D. Comments About Netting Commission with Fee & Accepting Contingency Income

Gallagher agrees to net the commission on the R/OCIP coverages (GL, WC, XS Liability) against the fee if a carrier cannot quote net of commission. We will not accept any contingent commission income on the R/OCIP. We will disclose the income earned by any wholesale brokers utilized for any placements; however, the fee proposal above does not include revenue earned by wholesale brokers.

The total number of pages (including cover sheet) contained in this Addendum Number One is three (3).

* * * * *

End of Addendum Number One

Exhibit C – Insurance Requirements

Broker shall, at all times during the term of this Agreement, carry, maintain and keep in full force and effect, a policy or policies of Commercial General Liability Insurance using Insurance Services Office form CG 00 01 or the equivalent (and any combination of excess or umbrella insurance as required), with minimum total limits of Ten Million Dollars (\$10,000,000.00) for each occurrence, Ten Million Dollars (\$10,000,000) Aggregate. Said policy or policies shall be issued by an insurer rated in Best's Insurance Guide with a rating of at least A-: VI.

Broker shall also provide Commercial Auto Liability Insurance using Insurance Services Office form CA 00 01 or the equivalent (and any combination of excess or umbrella insurance as required) covering bodily injury and property damage in the amount of a combined single limit of Ten Million Dollars (\$10,000,000.00) covering "Any Auto" utilized by Broker in performing its services hereunder. In the event Broker owns no vehicles in its own name, a non-owned and hired auto endorsement to the above referenced general liability policy shall be acceptable.

Broker agrees to maintain in force, at all times during the performance of work under this Agreement, Workers' Compensation Insurance as required by law of the State of Colorado with employer's liability limits of no less than \$1,000,000.

Broker agrees to maintain in full force and effect during the performance of work under this Agreement Professional Liability (errors and omissions) Insurance written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Broker and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. Policy limits shall be no less than Ten Million Dollars (\$10,000,000.00) per claim and aggregate. Further, if such insurance is on a claims-made basis, Broker agrees to maintain in full force and effect such insurance for one year after the performance of work under this Agreement.

All insurance policies shall provide that the insurance coverage shall not be canceled or reduced without thirty (30) days prior written notice to DIA. Broker agrees that it will not cancel or reduce said insurance coverage.

Broker agrees that if it does not keep the aforesaid insurance in full force and effect, DIA may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, DIA may take out the necessary insurance and pay, at Broker's expense, the premium thereon.

At all times during the term of this Agreement, Broker shall maintain on file with DIA a certificate of insurance showing that the aforesaid policies are in effect in the required amounts. The policies shall include DIA, its officials, employees, servants and agents as additional insureds, except for the automobile liability, workers' compensation policy and professional liability insurance. Broker shall promptly file with DIA Risk Manager such certificate or certificates and endorsements.

The insurance provided by Broker shall be primary to any coverage available to DIA. The insurance policies (other than workers' compensation) shall include provisions for waiver of subrogation. Broker hereby waives its rights of recovery against DIA.

Broker agrees to require all subcontractors or other parties hired for this project to provide the same insurance provisions as required of Broker unless otherwise agreed to by DIA. The subcontractor's general liability insurance shall add as additional insureds all parties to this Agreement. Broker agrees

to obtain certificates and endorsements evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here.

Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

For purposes of insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement. The insurance requirements set forth in this Section are intended to be separate and distinct from any other provision in this Agreement and are intended to be interpreted as such. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.