

AMENDATORY AGREEMENT

THIS AMENDATORY AGREEMENT (this “Amendatory Agreement”) is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (the “City”), and **ARAMARK MANAGEMENT SERVICES LIMITED PARTNERSHIP**, a Delaware limited partnership (the “Contractor”), with an address of 1101 Market Street, 29th Floor, Philadelphia, PA 19107.

BACKGROUND:

WHEREAS, the City and the Contractor entered into that certain Agreement, dated January 18, 2018 (the “Agreement”), by which Contractor agreed to provide facility services, as needed, to various City venues and facilities; and

WHEREAS, the City and Contractor desire to revise the Agreement by modifying the performance bond requirement consistent with the parties’ intended agreement; clarifying certain calculation computations related to pricing; and addressing Contractor compliance with M/WBE requirements as set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained in the Agreement and herein contained the parties agree as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

2. Paragraph 21.A., entitled **PAYMENT BOND AND PERFORMANCE BOND:** shall be modified by deletion of the language “Ten Million Dollars (\$10,000,000.00)” which shall be replaced with “One Hundred Thousand Dollars (\$100,000.00)”.

3. The following subpart shall be added to Paragraph 6, entitled **PAYMENT:**

“E. For purposes of clarity, the pricing tiers identified in **Exhibit B** shall be applied on an annual basis during the term (and any renewals thereof). When calculating which markup percentages are to apply, the agreed upon rates for wages less than \$3,500,000.00, \$3,500,000.00-\$5,000,000.00, and the rates for wages in excess of \$5,000,000.00 shall be based on actual total hourly wages including benefits paid in the applicable calendar year of the Term. By way of example, for the period January 1, 2019-December 31, 2019, the first \$3,500,000.00 in actual total hourly wages including benefits paid shall apply the rates described for ‘billing up to \$3.5M’ irrespective of wages paid during the calendar year 2018.”

4. A new Paragraph 47 shall be added, entitled **Compliance with M/WBE Requirements – Purchasing:**

- A. “This Agreement is subject to Article V of Chapter 28, Denver Revised Municipal Code (D.R.M.C.), designated as Sections 28-117 to 28-199 D.R.M.C. (the “Purchasing Ordinance”) and any Rules or Regulations promulgated pursuant thereto. The project goal for M/WBE participation established for this Agreement by the Division of Small Business Opportunity (DSBO) is 18%. The Contractor identified in its Proposal MBE and/or WBE firms with which it intends to subcontract under this Agreement, with a total participation level by such firms of 18%.
- B. Under § 28-132 D.R.M.C., the Contractor has an ongoing, affirmative obligation to maintain for the duration of this Agreement, at a minimum, compliance with its originally achieved level of MBE and WBE participation upon which this Agreement was awarded, unless there is a change in the work as described in § 28-133 D.R.M.C. The Contractor acknowledges that:
1. It must establish and maintain records and submit regular reports, as required, which will allow the City to assess progress in achieving the M/WBE participation goal.
 2. If change orders or any other contract modifications are issued under the Agreement, the Contractor shall have a continuing obligation to immediately inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract, upon any of the bases discussed in § 28-133, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.
 3. If there are changes in the work that include an increase in scope of work of this Agreement, whether by amendment, change order, force account or otherwise which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an M/WBE at the time of contract award, such change or modification shall be immediately submitted to DSBO for notification purposes. Those amendments, changes, force accounts or other contract modifications that involve a changed scope of work that cannot be performed by existing subcontractors shall be subject to a goal for M/WBEs equal to the original goal on the contract which was included in the proposal. The Contractor shall satisfy such goal with respect to such changed scope of work by soliciting new M/WBEs in accordance with § 28-133, D.R.M.C., as applicable, or the Contractor must show each element of Modified Good Faith Effort set out in § 28-135 D.R.M.C. The Contractor shall supply to the director the documentation described in § 28-135 D.R.M.C. with respect to the increased dollar value of the contract.
 4. Failure to comply with these provisions may subject the Contractor to sanctions set forth in § 28-137 of the Purchasing Ordinance. Should any questions arise regarding specific circumstances, the

Contractor must consult the Purchasing Ordinance or contact the designated DSBO representative at (720) 913-1999.”

5. The following language shall be added to **Exhibit A, SCOPE OF SERVICES AND TECHNICAL REQUIREMENTS**, in Section B.15 following ‘Or any other type of specialized service outside of the scope of the contractor’s responsibility.’:

“Services provided within the scope of this Agreement that are performed under subcontract and approved by the Office of Economic Development Division of Small Business Opportunity as a qualified Minority and Women-owned Business Enterprise.”

6. Contractor consents to the use of electronic signatures by the City. This Amendatory 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 Amendatory 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 Amendatory 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 basis that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

7. The Parties agree that this Amendatory Agreement shall be deemed effective as of November 1, 2018.

8. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

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 _____



