

FIRST AMENDATORY AGREEMENT

THIS FIRST AMENDATORY AGREEMENT is entered into as of the date indicated on the signature page, by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation ("City"), Party of the First Part, and **EARTH SERVICES & ABATEMENT LLC** a Colorado company authorized to do business in the State of Colorado ("Contractor"), Party of the Second Part;

WITNESSETH

WHEREAS, the parties entered into an Agreement dated June 11, 2019 (the "Existing Agreement") for maintenance of pretreatment devices and associated drain lines servicing common use areas, including maintenance activities for grease and sand pretreatment devices, and associated line maintenance, and removal and disposal of any resulting waste material services (the "Services") for airport facilities at Denver International Airport ("DEN"); and

WHEREAS, the parties desire to amend the Existing Agreement by amending language including sections of the existing agreement that have changed as a result of recent legislation along with adding several new areas to clean as a result of airport expansion at DEN; and

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

1. **SECTION 3.01 TERM** is hereby deleted and replaced with the following:

"3.01 TERM

The term of this Contract shall commence on April 29, 2019 and shall terminate April 28, 2024, unless terminated earlier in accordance with this Contract. In addition, the term of this Contract may be extended in the CEO's discretion, by written notice from the City to the Contractor, to allow the completion of any work which has been commenced prior to the date upon which this Agreement otherwise would terminate. However, no extension of the Contract Term shall increase the Maximum Contract Amount stated herein; such amount may be changed only by a duly executed written amendment to this Contract."

2. **SECTION 4.03 MAXIMUM LIABILITY Section A** is hereby deleted and replace with the following:

"A. Any other provision in this Agreement notwithstanding, in no event shall the City be liable for payment under this Agreement for any amount in excess of **THREE MILLION FOUR HUNDRED EIGHT THOUSAND AND NINE HUNDRED SIXTY-SIX DOLLARS AND ZERO CENTS (\$3,408,966.00)**. Payment under this Agreement shall be paid from the Airport System Fund. The City is under no obligation to make any future apportionments or allocations to said fund."

3. **SECTION 4.02 C. Payments** is hereby deleted and replaced with the following-

“C. The City will make monthly progress payments to Contractor for all services performed under this Agreement based upon Contractor’s monthly invoices or shall make payments as otherwise provided in this Agreement. The City’s Prompt Payment Ordinance, D.R.M.C. §§ 20-107 to 20-118 applies to invoicing and payment under this Agreement.”

4. **SECTION 11.02 NO DISCRIMINATION IN EMPLOYMENT** is hereby deleted and replaced with the following-

“11.02 NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.”

5. **SECTION 11.13 PROVISION FOR PROFESSIONAL/TECHNICAL SERVICES AGREEMENTS (CONTRACTORS) UNDER §8-17.5-101 – 102, C.R.S. AND D.R.M.C. §20-90** of the existing agreement is hereby deleted and replaced with the following:

“11.13 NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THE AGREEMENT

- A. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).
- B. The Contractor certifies that:
 - 1. At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.
 - 2. It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

3. It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.
 4. It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
 5. If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.
 6. It will comply with a reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.
- C. The Contractor is liable for any violations as provided in the Certification Ordinance. If the Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If this Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying the Contractor from submitting bids or proposals for future contracts with the City.”

6. **EXHIBIT B RATES AND CHARGES** is hereby amended with the addition of the attached **EXHIBIT B-1**.

7. **SECTION 2.01 SCOPE AND MANNER OF WORK** is amended with the addition of the following Section G:

“G. Exhibits A and B are subject to change by the City upon notice to the Contractor however any changes to any Exhibit shall be mutually negotiated and agreed upon by the parties.”

8. Except as otherwise provided herein, all of the terms and conditions of the Existing Agreement shall remain in full force and effect as though set out in full herein.

9. This First Amendatory Agreement shall not be effective or binding on the City until fully executed by all signatories of the City and County of Denver.

[END OF PAGE]

Contract Control Number:
Contractor Name:

PLANE-202160626-01/Alfresco 201947417-01
EARTH SERVICES & ABATEMENT LLC

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

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

PLANE-202160626-01/Alfresco 201947417-01
EARTH SERVICES & ABATEMENT LLC

By:  AB078B743B0B470...

Name: Marty Thomas
(please print)

Title: Director of Operations
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT B-1

GREASE TRAPS

Item Number	Treatment Frequency	GREASE TRAP LOCATION	Volume (Gallons)	Item Price effective 4/29/21	Annual Price
1	3x Per Year	ARFF 1	1000	\$ 1,870.20	\$ 5,610.60
2	4x Per Year	New A	2500	\$ 3,198.84	\$ 12,795.36
3	4x Per Year	New A	2500	\$ 3,198.84	\$ 12,795.36
4	4x Per Year	A-33	2500	\$ 3,198.84	\$ 12,795.36
5	4x Per Year	A-38	2500	\$ 3,198.84	\$ 12,795.36
6	4x Per Year	A-39	2500	\$ 3,198.84	\$ 12,795.36
7	4x Per Year	A-40	2500	\$ 3,198.84	\$ 12,795.36
8	4x Per Year	A-41	2500	\$ 3,198.84	\$ 12,795.36
9	4x Per Year	A-49	2500	\$ 3,198.84	\$ 12,795.36
10	4x Per Year	Westin Hotel West-1		\$ 4,265.12	\$ 17,060.48
11	4x Per Year	Westin Hotel West-2		\$ 4,265.12	\$ 17,060.48
12	4x Per Year	Westin-Jet Drain Lines		\$ 4,265.12	\$ 17,060.48
13	4x Per Year	New B	2500	\$ 3,198.84	\$ 12,795.36
14	4x Per Year	B-22	2500	\$ 3,198.84	\$ 12,795.36
15	4x Per Year	B-23	2500	\$ 3,198.84	\$ 12,795.36
16	12x Per Year	B-28	2500	\$ 3,198.84	\$ 38,386.08
17	4x Per Year	B-29	2500	\$ 3,198.84	\$ 12,795.36
18	12x Per Year	B-36	2500	\$ 2,497.34	\$ 29,968.08
19	12x Per Year	B-37	2500	\$ 3,731.98	\$ 44,783.76
20	4x Per Year	B-38	2500	\$ 2,300.92	\$ 9,203.68
21	12x Per Year	B-39	2500	\$ 3,198.84	\$ 38,386.08
22	4x Per Year	B-44	2500	\$ 3,198.84	\$ 12,795.36
23	4x Per Year	B-45	2500	\$ 3,198.84	\$ 12,795.36
24	4x Per Year	B-52	2500	\$ 3,198.84	\$ 12,795.36
25	4x Per Year	B-53	2500	\$ 3,198.84	\$ 12,795.36
26	4x Per Year	B-60	2500	\$ 3,198.84	\$ 12,795.36
27	4x Per Year	B-90	1500	\$ 2,083.46	\$ 8,333.84
28	4x Per Year	WEST TERMINAL	1500	\$ 2,735.85	\$ 10,943.40
29	4x Per Year	EAST TERMINAL	1500	\$ 2,735.85	\$ 10,943.40
30	4x Per Year	New C	2500	\$ 3,198.84	\$ 12,795.36
31	4x Per Year	New C	2500	\$ 3,198.84	\$ 12,795.36
32	4x Per Year	New C	2500	\$ 3,198.84	\$ 12,795.36
33	4x Per Year	New C	2500	\$ 3,198.84	\$ 12,795.36
34	4x Per Year	C-30	2500	\$ 3,198.84	\$ 12,795.36
35	12x Per Year	C-38	2500	\$ 3,198.84	\$ 38,386.08
36	4x Per Year	C-39	2500	\$ 3,198.84	\$ 12,795.36
37	4x Per Year	C-40	2500	\$ 3,198.84	\$ 12,795.36
38	12x Per Year	C-41	2500	\$ 3,198.84	\$ 38,386.08
39	12x Per Year	C-48	2500	\$ 3,198.84	\$ 38,386.08
40	12x Per Year	C-49	2500	\$ 3,198.84	\$ 38,386.08
Grease Trap Annual Cost					\$ 708,373.32

SAND TRAPS

Item Number	Treatment Frequency	SAND TRAP LOCATION	Item Price effective 4/29/21	Annual Price
1	1x Per Year	Drainage Station (1)	\$ 5,535.00	\$ 5,535.00
2	1x Per Year	Drainage Station (2)	\$ 5,535.00	\$ 5,535.00
3	1x Per Year	Drainage Station (3)	\$ 5,535.00	\$ 5,535.00
4	1x Per Year	Drainage Station (4)	\$ 5,535.00	\$ 5,535.00
5	1x Per Year	Sand & Oil Tank	\$ 5,535.00	\$ 5,535.00
6	1x Per Year	ARFF 1	\$ 3,479.44	\$ 3,479.44
7	1x Per Year	ARFF 2	\$ 3,479.44	\$ 3,479.44
8	1x Per Year	ARFF 3	\$ 3,479.44	\$ 3,479.44
9	1x Per Year	ARFF 4	\$ 3,479.44	\$ 3,479.44
10	1x Per Year	RF-35	\$ 3,479.44	\$ 3,479.44
11	1x Per Year	MOD 4 PARKING	\$ 1,978.23	\$ 1,978.23
12	1x Per Year	A-33	\$ 2,300.92	\$ 2,300.92
13	1x Per Year	A-47	\$ 2,300.92	\$ 2,300.92
14	1x Per Year	New A	\$ 3,479.44	\$ 3,479.44
15	1x Per Year	New A	\$ 3,479.44	\$ 3,479.44
16	1x Per Year	New A	\$ 3,479.44	\$ 3,479.44
17	1x Per Year	BAGGAGE EAST	\$ 3,479.44	\$ 3,479.44
18	1x Per Year	BAGGAGE WEST	\$ 3,479.44	\$ 3,479.44
19	1x Per Year	EAST TERM PKG (DE)	\$ 3,479.44	\$ 3,479.44
20	1x Per Year	EAST TERM PKG (HJ)	\$ 3,479.44	\$ 3,479.44
21	1x Per Year	WEST TERM PKG Baggage Level	\$ 3,479.44	\$ 3,479.44
22	1x Per Year	WEST TERM PKG (HJ)	\$ 3,479.44	\$ 3,479.44
23	1x Per Year	B-22	\$ 2,300.92	\$ 2,300.92
24	1x Per Year	B-23	\$ 2,300.92	\$ 2,300.92
25	1x Per Year	B-28	\$ 2,300.92	\$ 2,300.92
26	1x Per Year	B-29	\$ 2,300.92	\$ 2,300.92
27	1x Per Year	B-36	\$ 2,300.92	\$ 2,300.92
28	1x Per Year	B-44	\$ 2,300.92	\$ 2,300.92
29	1x Per Year	B-45	\$ 2,300.92	\$ 2,300.92
30	1x Per Year	B-52	\$ 2,300.92	\$ 2,300.92
31	1x Per Year	B-53	\$ 2,300.92	\$ 2,300.92
32	1x Per Year	C-30	\$ 2,300.92	\$ 2,300.92
33	1x Per Year	C-48	\$ 2,300.92	\$ 2,300.92
34	1x Per Year	C-49	\$ 2,300.92	\$ 2,300.92
35	1x Per Year	New C	\$ 3,479.44	\$ 3,479.44
36	1x Per Year	New C	\$ 3,479.44	\$ 3,479.44
37	1x Per Year	New C	\$ 3,479.44	\$ 3,479.44
38	1x Per Year	New C	\$ 3,479.44	\$ 3,479.44
39	1x Per Year	New C	\$ 3,479.44	\$ 3,479.44
40	1x Per Year	AGTS	\$ 3,479.44	\$ 3,479.44
41	1x Per Year	CARPENTER BUILDING	\$ 2,300.92	\$ 2,300.92
42	1x Per Year	8,000 Gallon Tank	\$ 6,734.40	\$ 6,734.40
43	4x Per Year	Westin Hotel Sandtrap	\$ 3,479.44	\$ 13,917.76
44	4x Per Year	PAINT SHOP SOUTH	\$ 1,978.23	\$ 7,912.92
45	4x Per Year	PAINT SHOP NORTH	\$ 1,978.23	\$ 7,912.92
46	4x Per Year	VEHICLE STORAGE BLDG	\$ 1,381.96	\$ 5,527.84
47	4x Per Year	FLEET BAY DOOR 1	\$ 1,515.24	\$ 6,060.96
48	4x Per Year	FLEET BAY DOOR 19A	\$ 1,978.23	\$ 7,912.92
49	4x Per Year	FLEET BAY DOOR 23	\$ 1,515.24	\$ 6,060.96
50	4x Per Year	Q/A Lab	\$ 1,198.16	\$ 4,792.64
Sand Trap Annual Cost				\$ 200,589.15