

AGREEMENT FOR ON-CALL PROFESSIONAL SERVICES

THIS AGREEMENT FOR ON-CALL PROFESSIONAL SERVICES (“Agreement”) is made and entered into as of the date stated on City’s signature page below (the “Effective Date”) by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado acting on behalf of its Department of Aviation (“City”), and **MCKINSEY & COMPANY, INC. WASHINGTON D.C.**, a corporation organized under the laws of the state of Delaware and authorized to do business in Colorado (“Consultant”) (collectively “Parties”).

WITNESSETH:

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

WHEREAS, City desires to obtain on-call Professional Aviation-related consulting services; and

WHEREAS, City has undertaken a competitive process to solicit and receive proposals for such services, and has selected the proposal submitted by the Consultant; and

WHEREAS, Consultant is qualified, willing, and able to perform the services, as set forth in this Agreement in a timely, efficient, and economical manner;

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

ARTICLE I LINE OF AUTHORITY

The Chief Executive Officer of the Department of Aviation (the “CEO”), her designee or successor in function, authorizes and directs all work performed under this Agreement. Until otherwise notified in writing by the CEO, the CEO has delegated the authority granted herein to the Chief of Staff (the “SVP”). The SVP will designate a Project Manager to coordinate Services under this Agreement. Reports, memoranda, correspondence, and other submittals required of Consultant hereunder shall be processed in accordance with the terms of this agreement.

ARTICLE II DUTIES AND RESPONSIBILITIES OF CONSULTANT

A. Scope of Services. Consultant will provide task-based professional services and provide deliverables for the City as designated by the SVP, and/or his/her designee, from time to time and as described in the attached **Exhibit A** (“Scope of Work”) and any issued task order, in accordance with schedules and budgets set by City and agreed upon by Consultant.

B. Standard of Performance. Consultant shall faithfully perform the work required under this Agreement in accordance with the standard of care, skill, efficiency, knowledge, training, and judgment provided by highly competent professionals who perform work of a similar nature to the work described in this Agreement. Consultant hereby represents and warrants to City it will perform its services skillfully, carefully, and diligently. Consultant agrees and understands City, in its sole discretion, shall reasonably and promptly determine whether services are provided in accordance with this Agreement and the Scope of Work. Consultant

acknowledges that time is of the essence in its performance of all work and obligations as provided under the Scope of Work and any issued task order under this Agreement.

C. Key Personnel Assignments.

1. All key professional personnel identified in the Scope of Work, **Exhibit A**, will be assigned by Consultant or subconsultants to perform work under this Agreement. Only the key personnel identified in **Exhibit A** will perform work under this Agreement, unless otherwise approved in writing by the Project Manager. It is the intent of the Parties that all key professional personnel be engaged to perform their specialty for all such services required by this Agreement and that Consultant's and the subconsultant's key professional personnel be retained for the life of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed.

2. If, during the term of this Agreement, the Project Manager determines that the performance of approved key personnel is not acceptable, the Project Manager shall notify Consultant, and may give Consultant notice of the period of time which the Project Manager considers reasonable to correct such performance. If the Project Manager notifies Consultant that certain of its key personnel will not be retained on this project, Consultant will use its best efforts to obtain adequate substitute personnel within ten days from the date of the notice. Such substitute personnel shall be approved in writing by the Project Manager. Failure to obtain the requisite approval shall be grounds for termination for cause in accordance with Article 3, Section B.

D. Subcontractors.

1. Although Consultant may retain, hire, and contract with outside subcontractors for work under this Agreement, no final agreement or contract with any such subcontractor shall be entered into without the prior written consent of the SVP. 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 City. 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 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.

2. Because Consultant's represented qualifications are consideration to City in entering into this Agreement, the SVP shall have the right to reject any proposed outside subcontractor for this work deemed by the SVP, in the SVP's 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 the SVP's sole and absolute discretion.

3. Consultant is subject to D.R.M.C. § 20-112 wherein 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 (§§ 20-107 through 20-118).

E. Ownership and Deliverables. Upon payment to Consultant, all Final Deliverables prepared by the Consultant and delivered to the City shall become the property of the City,

save that Consultant retains ownership of all concepts, analyses, know-how, tools, frameworks, software, algorithms, models, and industry information and perspectives developed or enhanced outside or in connection with the services (the "Consultant Tools"), it being understood that none of the Consultant Tools will contain the City's Confidential Information. To the extent the Final Deliverables include any Consultant Tools, Consultant hereby grants the City a non-exclusive, non-transferable, non-sublicenseable, worldwide, royalty-free license to use and copy the Consultant Tools solely as part of the Final Deliverables and subject to the limitations herein on disclosure of Consultant materials and publicity.

ARTICLE III TERM AND TERMINATION

A. Term. The Term of this Agreement shall commence on Effective Date, and shall terminate three years from the Effective Date, unless sooner terminated in accordance with the terms stated herein ("Expiration Date"). The CEO, in her sole discretion, has the option to extend the Term by one year, and may exercise that option up to two times. Should for any reason the Term expire prior to the completion by Consultant of services under a task order, this Agreement shall remain in full force and effect to permit completion of any services commenced prior to the Expiration Date.

B. Termination.

1. City has the right to terminate this Agreement without cause on thirty (30) days prior written notice to Consultant, and with cause on ten (10) days prior written notice to Consultant. In the event of termination by City for cause, Consultant shall be allowed five (5) business days from the date of receipt of notice to commence remedying its defective performance, and in the event Consultant diligently cures its defective performance to City's satisfaction, within a reasonable time as determined solely by City, then this Agreement shall not terminate.

2. If Consultant is discharged before all the services contemplated hereunder have been completed, or if Consultant's services are for any reason terminated, stopped or discontinued because of the inability of Consultant to provide services in accordance with the terms of this Agreement, Consultant shall be paid only for those services deemed by the CEO to have been performed in accordance with the Contract and scope of work prior to the time of termination.

3. Upon termination of this Agreement by City, Consultant shall have no claim of any kind whatsoever against 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 City, Consultant shall be entitled to reimbursement for the reasonable cost of the work to the date of termination, 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. 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 Maximum Contract Liability.

ARTICLE IV COMPENSATION AND PAYMENT

A. Maximum Contract Liability. Notwithstanding any other provision of this

Agreement, in no event shall City be liable for payment for services rendered and expenses incurred by Consultant under the terms of this Agreement for any amount in excess of the sum of Two Million dollars (\$2,000,000.00) ("Maximum Contract Liability"). Consultant will be performing the services on a firm-fixed price basis up to the Maximum Contract Amount. Consultant's fee is based on the firm-fixed price per project or order as agreed upon between the parties in each task order. The rates are set forth in **Exhibit B**.

B. The obligations of City under this Agreement shall extend only to monies encumbered for the purposes of this Agreement. Consultant acknowledges and understands City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of City.

C. Payment under this Agreement shall be paid from City and County of Denver Airport Revenue Fund and from no other fund or source. City has no obligation to make payments from any other source. City is not under any obligation to make any future encumbrances or appropriations for this Agreement nor is City under any obligation to amend this Agreement to increase the Maximum Contract Liability above.

D. Payment Schedule. Subject to the Maximum Contract Amount set forth in section 3.A. of this Agreement, Consultant's fees and expenses shall be paid in accordance with this Agreement and the terms of the relevant ask order. Unless otherwise agreed to in writing, Consultant will invoice the City on a regular basis in arrears, and the City will pay each invoice in accordance with Denver's Prompt Pay Ordinance, Denver Revised Municipal Code ("D.R.M.C.") § 20-107, *et seq.*, subject to the Maximum Contract Liability set forth above. Consultant understands and agrees interest and late fees shall be payable by City only to the extent authorized and provided for in City's Prompt Payment Ordinance. Travel and any other expenses are not reimbursable unless Consultant receives prior written approval of the Project Manager, and be related to and in furtherance of the purposes of the Consultant's engagement.

E. Invoices. Payments shall be based upon monthly progress invoices and receipts submitted by Consultant, audited and approved by City and this Section 3.C., as follows:

- (1) An executive summary and status reports that describe the progress of the services and summarize the work performed during the period covered by the invoice.
- (2) The amounts shown on the invoices shall comply with and clearly reference the relevant services and the agreed-upon fees specified in the task order and allowable reimbursable expenses.
- (3) If applicable, Consultant shall submit itemized business expense logs or copies of receipts for all allowable reimbursable expenses, where billing is based upon such items.
- (4) The signature of an officer of Consultant, along with such officer's certification they have examined the invoice and found it to be correct, shall be included on all invoices.

City reserves the right to reject and not pay any invoice or part thereof where the SVP determines the amount invoiced exceeds the amount agreed upon in the task order. City, however, shall pay

any undisputed items contained in an invoice. Disputes concerning payments under this provision shall be resolved by administrative hearing pursuant to the procedures of D.R.M.C. § 5-17.

F. Carry Over and Carry Back. If Consultant's total fees for any of the services described above are less than the amount budgeted for, the amount by which the budget exceeds the fee may be used, with the written approval of the SVP or their designee, to pay fees for additional and related services rendered by Consultant in any other services if in the SVP or her designee's judgment, such fees are reasonable and appropriate.

ARTICLE V INSURANCE, INDEMNIFICATION, AND DISPUTE RESOLUTION

A. Insurance.

1. Consultant shall obtain and keep in force during the entire term of this Agreement, all of the insurance policies described in City's form of insurance certificate which is attached to this Agreement as **Exhibit C** and incorporated herein. Such insurance coverage includes workers' compensation and employer liability, commercial general liability, business automobile liability, and professional liability. Upon execution of this Agreement, Consultant shall submit to City a fully completed and executed original of the attached insurance certificate form, which specifies the issuing company or companies, policy numbers and policy periods for each required coverage.

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

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

4. Each subcontractor shall provide its own insurance coverage as required by and in accordance with the requirements of this section of the Agreement. All coverages for subcontractors shall be subject to all of the requirements set forth in the form certificate.

5. City in no way warrants and/or represents the minimum limits contained herein are sufficient to protect Consultant from liabilities arising out of the performance of the terms and conditions of this Agreement by Consultant, its agents, representatives, or employees. Consultant shall assess its own risks and as it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Consultant is not relieved of any liability or other obligations assumed or pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. In no event shall City be liable for any: (i) business interruption or other consequential damages sustained by Consultant; (ii) damage, theft, or destruction of Consultant's inventory, Improvements, or property of any kind; or (iii) damage, theft, or destruction of an automobile, whether or not insured.

6. The Parties hereto understand and agree that 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 City and County of Denver, its officers, officials and employees.

B. Defense and Indemnification.

1. Consultant agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Consultant or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

2. 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 Claimant has filed suit on the Claim. Consultant's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

3. 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. In addition to the duty to indemnify and hold harmless, Consultant will have the duty to defend City, its agents, employees, and officers from all liabilities, claims, expenses, losses, costs, fines, and damages (including but not limited to attorney's fees and court costs) and causes of action of every kind and character. The duty to defend under this paragraph is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of Consultant, City, and any indemnified party. The duty to defend arises immediately upon written presentation of a claim to Consultant.

4. 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.

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

C. DISPUTE RESOLUTION. Disputes arising under or related to this Agreement or the work which is the subject of this Agreement shall be resolved by administrative hearing which shall be conducted in accordance with the procedures set forth in D.R.M.C. §5-17. The parties agree that the determination resulting from said administrative hearing shall be final, subject only to Consultant's right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

ARTICLE VI GENERAL TERMS AND CONDITIONS

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

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

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

D. Compliance with Patent, Trademark and Copyright Laws.

1. 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. 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 Consultant prepares any documents which specify any material, equipment, process or procedure which is protected, Consultant shall disclose such patents, trademarks and copyrights in the construction drawings or specifications.

2. Consultant further agrees to release, indemnify and save harmless City, its officers, agents and employees, pursuant to Article V, Section I, "Defense and 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.

E. Notices. Notwithstanding the above, 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
Denver International Airport
Airport Office Building
8500 Peña Boulevard, 9th Floor
Denver, Colorado 80249-6340

And by City to:

Mr. Tyler Duvall
McKinsey & Company, Inc. Washington D.C.
1200 19th Street, NW, Suite 1100
Washington, DC 20036

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.

F. Rights and Remedies Not Waived. In no event shall any payment by City hereunder constitute or be construed to be a waiver by City of any breach of covenant or default which may then exist on the part of 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 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.

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

H. Governing Law; Bond Ordinances; Venue.

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

2. 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.

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

ARTICLE VII STANDARD CITY PROVISIONS

A. Diversity and Inclusiveness.

1. The City encourages the use of qualified small business concerns doing business within the metropolitan area that are owned and controlled by, economically or socially disadvantaged individuals.

2. The Consultant is encouraged, with respect to the goods or services to be provided under this Contract, to use a process that includes small business concerns, when considering and selecting any subcontractors or suppliers.

B. Small Business Enterprises. Consultant is subject to City's ordinance, DRMC Chapter 28, Article III (MBE/WBE Ordinance) which prohibits discrimination in the awarding of contracts and subcontracts and directs the DSBO Director to establish goals for MBE and WBE participation in the preconstruction and construction of City-owned facilities. The goal for this Agreement is 15%. Project goals must be met with certified MBE and WBE participants or by demonstrating good faith efforts under the MBE/WBE Ordinance. The Consultant must comply with the terms and conditions of the MBE/WBE Ordinance in soliciting and contracting with its sub-contractors and sub-contractors in administering the performance of the work hereunder. It shall be an ongoing, affirmative obligation of the Consultant to maintain, at a minimum, compliance with the originally achieved level of MBE/WBE participation upon which this Agreement was awarded 15%, for the duration of this Agreement, unless City initiates a material alteration to the Scope of Work.

C. City's Non-Discrimination Policy. In connection with the performance of Services under this Agreement, Consultant agrees not to refuse to hire, discharge, promote, demote, or to discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, color, religion, national origin, gender, age, military status, sexual orientation, gender variance, marital status, and/or physical and mental disability. Consultant further agrees to insert the foregoing provision in all subcontracts hereunder

D. Advertising and Public Disclosures. 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 Project Manager. Any oral presentation or written materials related to DEN shall include only presentation materials, work product, and technical data which have been accepted by City, and designs and renderings, if any, which have been accepted by City. The CEO shall be notified in advance of the date and time of any such presentations. Nothing herein, however, shall preclude 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 City, including without limitation, the Mayor, the CEO, any member or members of City Council, and the Auditor. Additionally, except as required by Law, the City agrees not to use Consultant's name, refer to Consultant's work, or make any deliverables associated with this Agreement available outside its organization without Consultant's prior written permission. Further, the City agrees that Consultant will not advocate, present findings or speak on the City's behalf in any public forum without specific written authorization and agreement.

E. Colorado Open Records Act. Consultant acknowledges that City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes § 24-72-201 et seq., and Consultant agrees that it will fully cooperate with City in the event of a request or legal process arising under such act for the disclosure of any materials or information which 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 Consultant to City shall be considered confidential by City only to the extent provided in the Open Records Act, and

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

In the event of a request to City for disclosure of such information, time, and circumstances permitting, City will make a good faith effort to advise Consultant of such request in order to give Consultant the opportunity to object to the disclosure of any material Consultant may consider confidential, proprietary, or otherwise exempt from disclosure. In the event Consultant objects to disclosure, City, in its sole and absolute discretion, may file an application to the Denver District Court for a determination of whether disclosure is required or exempted. In the event a lawsuit to compel disclosure is filed prior to City's application, City will tender all such material to the court for judicial determination of the issue of disclosure. In both situations, Consultant agrees it will either waive any claim of privilege or confidentiality or intervene in such legal process to protect materials Consultant does not wish disclosed. Consultant agrees to defend, indemnify, and hold harmless City, its officers, agents, and employees from any claim, damages, expense, loss, or costs arising out of Consultant's objection to disclosure, including prompt reimbursement to City of all reasonable attorney fees, costs, and damages City may incur directly or may be ordered to pay by such court.

F. Examination of Records.

1. In connection with any services performed hereunder on items of work toward which federal funds may be received the City, the Federal Aviation Administration ("FAA"), the Comptroller General of the United States and any other duly authorized representatives shall have access to any books, documents, papers and records of Consultant which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. Consultant further agrees that such records will contain information concerning the specific services performed along with the applicable federal project number.

2. Consultant agrees until the expiration of three (3) years after the final payment under this Agreement, any duly authorized representative of City, including the CEO, City's Auditor or their representatives, shall have the right to examine any pertinent books, documents, papers and records of Consultant involving transactions related to this Agreement, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program.

G. Use, Possession or Sale of Alcohol or Drugs. Consultant shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in City's barring Consultant from City facilities or participating in City operations.

H. City Smoking Policy. Consultant and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99 and the Colorado Indoor Clean Air Act, prohibiting smoking in all City buildings and facilities.

I. Conflict Of Interest. 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 an unmitigable conflict of interest directly related to the performance of services under this Agreement. Consultant represents that to the best of its knowledge and belief, it has disclosed any and all current or potential conflicts of interest. A conflict of interest may

include transactions, activities, or conduct that would directly affect the judgment, actions or work of Consultant by placing Consultant's own interests, or the interest of any party with whom Consultant has a contractual arrangement, in direct conflict with those of City. City, in its sole discretion, shall reasonably determine the existence of a conflict of interest and may terminate this agreement if such a conflict exists and cannot be mitigated, after it has given Consultant written notice which describes such conflict.

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 reasonably acceptable to City.

J . Prohibition Against Employment Of Illegal Aliens To Perform Work Under this Agreement.

1. The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes and Den. Rev. Municipal Code 20-90 and the Consultant is liable for any violations as provided in said statute and ordinance.
2. The Consultant certifies that:
 - (a) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
 - (b) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.
3. The Consultant also agrees and represents that:
 - (a) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
 - (b) 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 the Agreement.
 - (c) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
 - (d) 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 the Agreement and it has complied with all federal requirements regarding the use of the E-Verify program, including, by way of example, requirements related to employee notification and preservation of employee rights.
 - (e) If it obtains actual knowledge that a subcontractor or subconsultant performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and City within three days. The Consultant will also then terminate such subcontractor or subconsultant if within three 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 subcontractor provides information to establish that the subcontractor or subconsultant has not knowingly employed or contracted with an illegal alien.

(f) 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. or City Auditor under authority of D.R.M.C. §20-90.3.

ARTICLE VIII STANDARD FEDERAL PROVISIONS

A. Sensitive Security Information. Consultant acknowledges that, in the course of performing its work under this Agreement, Consultant may be given access to Sensitive Security Information (“SSI”), as material is described in federal regulations, 49 C.F.R. part 1520. Consultant specifically agrees to comply with all requirements of the applicable federal regulations specifically, 49 C.F.R. Parts 15 and 1520. Consultant understands any questions it may have regarding its obligations with respect to SSI must be referred to the DEN’s Security Office.

B. DEN Security. Consultant, its officers, authorized officials, employees, agents, subcontractors, and those under its control, will comply with safety, operational, or security measures required of Consultant or City by the FAA or TSA. If Consultant, its officers, authorized officials, employees, agents, subcontractors or those under its control, fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against City, then, in addition to any other remedies available to City, Consultant covenants to fully reimburse City any fines or penalties levied against City, and any attorney fees or related costs paid by City as a result of any such violation. This amount must be paid by Consultant within fifteen (15) days from the date of the invoice or written notice.

C. Federal Rights. This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between 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 City for DEN purposes and the expenditure of federal funds for the extension, expansion or development of the Denver Municipal Airport System.

ARTICLE IX CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

This agreement consists of Articles I through X which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Appendix A:	Standard Federal Assurances
Exhibit A:	Scope of Work
Exhibit B:	Rates
Exhibit C:	Certificate of Insurance

In the event of an irreconcilable conflict between a provision of Articles I through X 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 A

Articles I through X hereof
Exhibit A
Exhibit B
Exhibit C

ARTICLE X CITY EXECUTION OF AGREEMENT

A. City Execution. This Agreement is expressly subject to, and shall not become effective or binding on City, until it is fully executed by all signatories of City and County of Denver. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same, and it may be signed electronically by either party in the manner specified by City.

B. Electronic Signatures and Electronic Records. Consultant consents to the use of electronic signatures by the City. The 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 the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[APPENDIX, SIGNATURE PAGES, AND EXHIBITS FOLLOW]

APPENDIX A

COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

NOTE: As used below the term "Contractor" shall mean and include Consultant, and the term "sponsor" shall mean the "City."

During the term 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 will comply with the Title VI List of Pertinent Non-Discrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.

2. **Nondiscrimination.** The Contractor, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, creed, color, national origin, or sex 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 Acts and Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontractors, 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 Agreement and the Acts and Regulations relative to nondiscrimination 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, Regulations or 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 (FAA) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the sponsor or the FAA, 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 nondiscrimination provisions of this Agreement, the sponsor will impose such Contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the Contractor under this Agreement until the Contractor complies, and/or;
- b. Cancelling, terminating, or suspending this Agreement, in whole or in part.

6. **Incorporation of Provisions.** The Contractor will include the provisions of paragraphs one (1) through six (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations or directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the FAA 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 such litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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 _____



EXHIBIT A

SCOPE OF WORK

DEN On-Call Consulting

Projects range in size and across categories, and Consultant will be utilized on an on-call basis. A specific list of the types of services that may be requested are set forth below.

Areas of Expertise/Specifications Required

The list below is a sample of skills periodically required by the Airport. They include but are not limited to:

1. Organization and Management Consulting – Consultant shall provide professional services related to business process effectiveness and transformation, strategy planning, organizational assessment, human resource analysis, organizational change management, and department reorganization. Scope of work will include performing consulting engagements to assess current state, providing research and recommendations, designing future state, creating implementation strategies, and/or assisting in implementation of changes and strategies.
2. Finance and Economic Development - Consultant shall provide professional services related to economic development analysis, revenue optimization analyses, investment review, site selector research and relocation/attraction package development, financial reporting and analysis, finance transformation, and cost allocation. Scope of work will include performing consulting engagements to assess current state, providing recommendations, designing future state, creating implementation strategies, and/or assisting in implementation of changes and financial strategies.
3. Public Affairs / Government Affairs Consulting – Consultant shall provide professional services and consulting related to government lobbying and advocacy, policy analysis and political research along with community outreach.
4. Project Management - Consultant shall provide professional services and staff augmentation related to project management and governance. This includes assisting in the development and implementation of a standardized process for project management and performing project management activities as needed.
5. Technology Consulting – Consultant shall provide professional services consulting related to enterprise systems strategies and management, network infrastructure, data

storage and access models, application management, information security, mobile device management, disaster recovery, and business continuity. Scope of work will include performing consulting engagements to assess current state, providing recommendations, designing future state, creating implementation strategies, and/or assisting in implementation of changes and strategies.

6. Real Estate Development – Consultant shall provide professional services and consulting related to real estate development, planning, marketing, negotiation assistance, airport city development, and other real estate development support as needed.
7. Engineering and Construction – Consultant shall provide professional services and consulting related to engineering, planning, construction, and architectural services as needed.
8. Revenue Development – Consultant shall provide consulting related to airport revenue generation related to ground transportation, concessions, hotels, real estate development, and other revenue opportunities on airport.
9. Aviation Related Professional Services– Consultant shall provide consulting related to air service market assessments, industry market performance, and relevant strategies around: airlines, airport operations and maintenance, including international experience.

Consultant should be able to provide solutions for most of the above categories or have resources to sub-consultants with the necessary expertise.

McKinsey Team Component 1: Dedicated Component 2: Part-Time Leadership Consultant Team Team and Additional Resources included in the Team Bundle		
Light Team (EM +1)	Full time Engagement Manager (Working Team Lead) and 1 full time Associate	Senior Partners (part-time) Partners (part-time) Senior McKinsey Experts (part-time) Document prep and IT support (part-time) General administrative support (part-time) Research/Analytics support staff (part-time)
Medium Team (EM+3)	Full time Engagement Manager (Working Team Lead) and 3 full time Associates	
Leadership/Counseling	Part-time counseling support from at least 1 Partner	

McKinsey Team	Year 1 Weekly Rate
Light Team	\$155,000
Medium Team	\$230,000
Leadership/Counseling	\$39,000

**McKinsey proposes an annual escalation of 4% after Year 1 of the Contract. Should McKinsey's actual annual commercial escalation be less than 4% in any given contract year, McKinsey will propose escalation in line with that year's actual increase instead.*

Firm	Functional Labor Category for Key Personnel	2018 Hourly Rate*
AECOM	Sr. Project Manager	\$175
GRA	Officer	\$301
Fulcrum Group	Partner	\$350
BluePrint	Principal	\$150
Martin/Martin	Civil Engineering Project Manager	\$150
LaPonda	Sr. Consultant	\$325
Ironhorse	Architect	\$175
Cushman & Wakefield	Principal	\$275
IBM	Sr. Managing Consultant	\$340
Sewald Hanfling	Principal	\$350
MVP Tank	Managing Partner	\$210
D1 Solutions	President	\$175

** Subject to change after one year*

EXHIBIT C

CITY AND COUNTY OF DENVER INSURANCE REQUIREMENTS FOR THE DEPARTMENT OF AVIATION

Certificate Holder Information:

CITY AND COUNTY OF DENVER
Attn: Risk Management, Suite 8810
Manager of Aviation
Denver International Airport
8500 Peña Boulevard
Denver CO 80249

If you are awarded the contract, your ACORD forms must be submitted electronically to: contractadmininvoic@flydenver.com.
HARD COPIES will not be accepted.
All ACORD forms must have the project number in the Description of Operations section.

CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: 201738814 Professional Airport Consulting Service On-Call

I. PRIMARY COVERAGE

Colorado Workers' Compensation and Employer Liability

Minimum Limits of Liability (In Thousands) \$100, \$500, \$100

- Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement. Any such rejections previously effected, must have been revoked as of the date Contractor executes this Agreement.
- If the contractor/consultant is a sole proprietor, Workers' Compensation is waived per State of Colorado law.

Business Automobile Liability

Minimum Limits of Liability (In Thousands):

Combined Single Limit \$1,000

The policy must provide the following:

- Coverage applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.
- If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy.

II. ADDITIONAL COVERAGE

Professional Liability (Errors and Omissions)

Minimum Limits of Liability (In Thousands)

Per Claim \$1,000
Aggregate \$1,000

The policy must provide the following:

- Policies written on a claims-made basis must remain in force for three years extended reporting period in accordance with CRS 13-80-104.
- If the coverage is written on a claims-made basis the Insured warrants that any retroactive date applicable to coverage

under the policy precedes the effective date of this Contract.

Umbrella Liability

Coverage:

Umbrella Liability, Non Restricted Area Minimum Limits of Liability (In Thousands)	Each Occurrence and aggregate	\$1,000
Umbrella Liability, Unescorted airside access Minimum Limits of Liability (In Thousands)	Each Occurrence and aggregate	\$9,000

Any Policy issued under this section must contain, include or provide for the following:

1. City, its officers, officials and employees as additional insureds.
2. Coverage in excess of, and at least as broad as, the primary policies in sections WC-1, CGL-1, and BAL-1.
3. **If operations include unescorted airside access at DIA, then a \$9 million Umbrella Limit is required.**

III. ADDITIONAL CONDITIONS

It is understood and agreed, for the benefit of the City, that the following additional conditions shall apply to all coverage specified herein:

1. For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
2. All coverage provided herein shall be primary and any insurance maintained by the City shall be considered excess.
3. For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.
4. The City shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein, and the insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
5. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better.
6. For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
7. No changes, modifications or interlineations on this document shall be allowed without the review and approval of the Risk Administrator prior to contract execution.

NOTICE OF CANCELLATION

It is understood and agreed that should any Policy issued hereunder be cancelled or non-renewed before the expiration date thereof, or sustain a material change in coverage adverse to the City, the issuing company or its authorized Agent shall give notice to the Department of Aviation in accordance with policy provisions.