

EXECUTIVE SUMMARY

Background:

In 2019 Denver Arts & Venues (DAV) issued an RFP for ticketing and other related customer services at DAV facilities with the assistance of the GS Purchasing Division. AXS Group, LLC. was awarded five-year service contract THTRS-201952501, from 1/1/2020 – 12/31/2024 with an option for two, one-year extensions through 12/31/2026. Due to the ongoing COVID-19 pandemic, both DAV and the Contractor have experienced loss of business due to various health restrictions on mass gatherings and loss of employees due to COVID-19 furloughs and layoffs.

Pursuant to the contract, the Contractor provides services including, but not limited to: provision of ticketing software, sales and services with respect to events at venues operated by DAV; provide related customer support services including phone banks and staffing the customer service center at the Performing Arts Complex; collection and holding of ticket revenues and FDA taxes; and provide settlement assistance and issuance of payment to promoters for events occurring at the Denver Coliseum, Red Rocks Amphitheatre, the Ellie Caulkins Opera House, Boettcher Concert Hall, the Temple Hoyne Buell Theater, Sculpture Park and the Galleria, and the McNichols Civic Center Building.

Current Request:

DAV is seeking City Council approval of an amendment to the contract that will authorize Denver Arts & Venues to amend the ticketing and customer service contract with AXS Group, LLC, to reflect current ticketing conditions related to the COVID-19 pandemic.

- For much of 2020, performance venues have been closed and/or nearly vacant to ensure safety of patrons and staff pursuant to public health orders and social distancing mandates.
- The viability of Contractor's performance of the contract depends upon ticket sales for events occurring at DAV facilities; as such, we recognize that it is not necessarily feasible to make minimum payments or other scheduled payments for the 2020 calendar year.
- The amendment does not extend the originally-contracted period, nor does it anticipate additional costs for the City.
- It is uncertain on what date performance venues in Denver will be able to resume normal activity levels.
- The ability to resume normal levels of activity in DAV facilities rests on factors outside of the City's or Contractor's control.
- The resumption of "normal business activity" will be determined by the Director of Arts & Venues.
- The amendment prevents opportunistic cancellation of services pursuant to Force Majeure.

- The amendment adds and defines the term “Health and Safety Restrictions Period.” This period began on March 13, 2020, and will continue until formal notification issued by the Director of Arts & Venues or her designee.
- The amendment prioritizes cost transparency by identifying and controlling costs prior to resumption of normal activity levels (i.e. during the Health and Safety Restrictions Period). The Contractor is required during this period to secure written approval prior to making any purchases or deviating from cost estimates.
- The amendment temporarily suspends ticket sales-based guarantees to AXS from DAV.
- Patron refund processes are being clarified and improved to ensure DAV has final authority over refund settlements.
- Minimum payment terms and other payments to the City shall resume in 2021. Certain other credits owing to the city that would have expired had the agreement not been amended shall not expire, but shall instead roll over to 2021 to reflect 2020 conditions.