

## AMENDATORY AGREEMENT

**THIS AMENDATORY AGREEMENT** is entered by the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **BRODART CO.**, a foreign general partnership, by its general partner, **NUBRO, INC.**, a Delaware corporation, doing business at 500 Arch Street, Williamsport, Pennsylvania (the “Contractor”).

### RECITALS

- A. The City and Contractor entered into an Agreement dated June 15, 2010 to provide shelf-ready library materials and services for the Green Valley Ranch Branch Library and Stapleton Branch Library (the “Agreement”).
- B. The City and Contractor wish to amend the Agreement, to add additional materials to the Stapleton Branch Library and add materials and services for the West Denver Branch Library, thereby increasing capacity and the total compensation to be paid for such materials and services.

**NOW, THEREFORE**, the parties hereby amend the Agreement as follows:

1. All references to “...Exhibit A...” in the Agreement shall be amended to read: “...Exhibit A and A-1...” as applicable. The scope of service marked as Exhibit A-1 attached to this Amendatory Agreement is hereby incorporated herein by reference.

2. Section 3 entitled “**TERM**”, is amended to read as follows:

“**3. TERM:** The Agreement will commence on execution of this Agreement and will expire on December 31, 2013.”

3. Subsection (a), entitled “Fee” of Section 4 entitled “**COMPENSATION AND PAYMENT**”, is amended to read as follows:

“**a. Fee:** The City shall pay and the Contractor shall accept as the sole compensation for services rendered, materials provided, and costs incurred under the Agreement **THREE MILLION THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,300,000.00)**. Amounts billed may not exceed the prices and rates set forth in *Exhibits A and A-1*.”

4. Subsection d(1) entitled “Maximum Contract Amount” of Section 4 entitled “**COMPENSATION AND PAYMENT**”, is amended to read as follows:

“**d. Maximum Contract Amount:**

(1) Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **THREE MILLION THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,300,000.00)** (the “Maximum Contract Amount”). The City is not obligated to execute an Agreement or any amendments for

any further services, including any services performed by Contractor beyond that specifically described in *Exhibits A and A-1*. Any services performed beyond those in *Exhibits A and A-1* are performed at Contractor's risk and without authorization under the Agreement."

5. Section 20 entitled "**NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT**" is hereby amended to read as follows:

**20. NO EMPLOYMENT OF ILLEGAL ALIENS 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 an illegal alien who will perform work under this Agreement.
- (2) 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.

c. The Contractor also agrees and represents that:

- (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (2) It shall 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 an illegal alien to perform work under the 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 the E-Verify Program.
- (4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Contractor 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 the Agreement knowingly employs or contracts with an illegal alien, it will notify such

subconsultant or subcontractor and the City within three (3) days. The Contractor will also then 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 illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor 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, or the City Auditor, under authority of D.R.M.C. 20-90.3.

d. The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any such 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 Contractor from submitting bids or proposals for future contracts with the City.”

6. A new section 35, entitled “ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS,” is added to the Agreement and reads as follows:

“35. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Contractor 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.”

6. Except as amended herein, the Agreement is reaffirmed, and ratified in each and every particular.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals at Denver, Colorado as of the day first above written.

Contract Control Number: CE78628

Vendor Name: BRODART COMPANY

By: Brodart Co., by Nuber, Inc, general practice

Name: Emily Anne Schulte Emelyanne Schulte  
(please print)

Title: Marketing Manager  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



**Contract Control Number:** CE78628

**Vendor Name:** BRODART COMPANY

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:

DAVID W. BROADWELL, Attorney  
for the City and County of Denver

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



## EXHIBIT A-1

### Scope of Work

The Denver Public Library will provide Brodart with a copy of all the titles in its database. Brodart will then provide the Denver Public Library with a list of titles available for purchase based on its holdings. The Denver Public Library will select all titles.

The Denver Public Library will select from Brodart's available titles approximately 62,000 items at an estimated cost of \$1,100,000.00 for the West Denver Branch Library and approximately 15,500 additional items at an estimated cost of \$315,000.00 for the Stapleton Branch Library. The Denver Public Library will manage the budget and adjust quantities for each branch to ensure the total spent does not exceed the established amount of the contract.

Bordart Amendment project break out:

<b>Project Name/#</b>	<b>Fund/ORG</b>	<b>Amount</b>
<b>West Denver – GI81408_115</b>	37135/5011102	<b>\$1,100,000.00</b>
<b>Stapleton - GI81408_116</b>	37135/5011102	<b>\$315,000.00</b>
<b>Total Amendment Amount</b>		<b>\$1,415,000.00</b>

Brodart will provide shelf ready material for the collection of the West Denver and Stapleton Branch Libraries using the following discount schedule as applied to Brodart's standard prices and cost for value added services (processing, cataloging and item linking):

#### *Adult and Young Adult Fiction and Nonfiction*

Trade Hardcover	47%
Trade & Mass Market Paperbacks	41%
Non-trade Hardcover and Paperbacks	12%

#### *Children's Fiction and Non-fiction*

Single Binding	40%
Publisher Library Binding	22%
Trade & Mass Market Paperbacks	41%

#### *Audiobooks*

Fiction and Non-fiction	41%
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#### *Valued Added Costs*

Complete Book-Serv Batch Method	\$3.25per book
Complete Book-Serv Batch Method	\$8.45per audiobook

All processing and cataloging will meet the specifications of the Denver Public Library as outlined in the proposal.

Shelf ready material will include the following:

1. Mylar cover for hardcover titles with book jackets.

2. Property stamp (stamps provided by the Denver Public Library)
3. Branch label (provided by the Denver Public Library)
4. Barcode (provided by the Denver Public Library)
5. Programmed RFID tag (RFID tag provided by the Denver Public Library, Brodart will program)
6. Spine label with call number
7. Spine label cover
8. Genre label if indicated by the Denver Public Library at time of order (provide by the Denver Public Library)
9. Content/quantity label if applicable (provided by the Denver Public Library)

Item linking will include the following information delivered through a 9XX field of the MARC record:

1. Branch code
2. Location code
3. Call number
4. Barcode number
5. Item status
6. Media code

Brodart will deliver the MARC records with item information in the 9XX field to an FTP site for the Denver Public Library to load into its database.

Brodart will pack and store materials in approximate shelf order (Level 1) at no charge to the Denver Public Library.

Brodart will pay all charges associated with an inside delivery of materials to the Stapleton and West Denver Branch Libraries, including de-palletizing if necessary. The Denver Public Library will notify Brodart of the delivery date at least 30 days in advance. Currently, the estimated delivery for Stapleton Branch Library is January 2012 and West Denver Branch Library is March 2013.