

AMENDATORY AGREEMENT

THIS AMENDATORY AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (hereinafter referred to as the “City”), and **LINEBARGER GOGGAN BLAIR & SAMPSON, LLP**, a foreign limited liability partnership registered in Texas, with its Colorado place of business located at 11001 West 120th Ave, Suite 215, Broomfield, Colorado 80021, (“Special Counsel”), collectively “the Parties.”

WHEREAS, the City and the Contractor entered into an Agreement dated **December 6, 2021**, to provide services (the “Agreement”). The Parties now wish to modify the Agreement as set forth below.

The Parties agree as follows:

1. Effective upon execution, all references to **Exhibits A** and **B** in the existing Agreement shall be amended to read **Exhibits A** and **A-1**; **B** and **B-1**, as applicable. **Exhibits A-1** and **B-1** are attached and will control from and after the date of execution.

2. Section 3 of the Agreement, titled “**TERM**,” is amended by deleting and replacing it with the following:

“**3. TERM**: The Agreement will commence on **September 1, 2021** and will expire on **August 31, 2025** (the “Term”). The Agreement may be extended by City providing written notice of extension to Special Counsel, prior to expiration of the then-current term for one (1) additional year, subject to the hourly rate increase provided for in Section 4(b) of this Agreement. Written notice of the term extension should be in the form of a letter executed by the City Attorney.”

3. Section 22 of the Agreement, titled “**NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THIS AGREEMENT**” is hereby deleted and replaced as follows:

“**22. Intentionally Omitted.**”

4. Section 42 is hereby added to the agreement and reads as follows:

“**42. COMPLIANCE WITH DENVER WAGE LAWS**: To the extent applicable to the Contractor’s provision of Services hereunder, the Contractor shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City’s Minimum Wage and Civil Wage Theft

Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Contractor expressly acknowledges that the Contractor is aware of the requirements of the City’s Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.”

5. Except as amended here, the Agreement is affirmed and ratified in each and every particular.
6. This Amendatory Agreement is not effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

End.
Signature pages and exhibits follow this page.

Contract Control Number: ATTNY-202160108-01, ATTNY-202473530-01
Contractor Name: LINEBARGER GOGGAN BLAIR & SAMPSON LLP

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:

ATTNY-202160108-01, ATTNY-202473530-01
LINEBARGER GOGGAN BLAIR & SAMPSON LLP

By:  DocuSigned by:
77DC2793729A438...

Name: James Harris
(please print)

Title: Capital Partner
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit A-1

SCOPE OF WORK:

The Vendor and all persons providing any of the services requested in this RFP shall adhere to the highest legal, ethical, and professional standards. The services (“Services”) requested in this RFP are described in more detail below and include, but are not limited to, managing and overseeing collection services on all referred accounts and enforcing and preserving on behalf of the City any and all rights to recover the amounts owed to the City through litigation. Legal services include, but are not limited to, obtaining judgments in favor of the City against debtors, implementing pre- and post-judgment recovery remedies as directed by the City, and collecting funds from checks written with insufficient funds.

1.a. Required Services:

1. In accordance with the highest legal, ethical and professional standards, the Vendor shall provide efficient and effective collection services on accounts referred by the City through reasonable methods including telephone collection calls, issuing “dun” letters, and other reasonable and appropriate business methods.

2. Upon the direction of the City, the Vendor shall provide litigation and other legal services necessary to obtain judgment in favor of the City on any and all accounts referred from the City. These services include determining the location of any assets held by debtors for the purpose of satisfaction of judgment, skip tracing, and person location services. In addition, the Vendor shall provide legal services in appropriate Bankruptcy Courts (including drafting and filing Proof of Claims and other legal documents) for collection matters referred to the Vendor by the City Attorney or the Director of the Municipal Operations Section of the Department of Law and any and all other legal and collection services necessary and appropriate to represent the City concerning the City’s Accounts as requested. It is acknowledged that the Vendor’s authority to represent the City in bankruptcy matters shall extend only to matters involving the collection of debts and shall not extend to any other bankruptcy matter involving the City.

3. The Vendor shall competently manage all litigation to recover debts owed to the City including, but not limited to, conducting witness preparation, interviewing City officials or employees, case management, conducting all appropriate legal research, and advising the City of legal strategies and debt particulars.

4. The Vendor may negotiate, settle, and accept payment of a debt in either or both of: a. periodic installments; or

b. an amount less than the full amount of the debt, but only if such settlements are fully in accordance with guidelines established and approved by the City Attorney, the Executive Director of DOTI or designee, and DPD Financial Services Division or designee.

The Vendor shall memorialize all settlements and payment plans through a written stipulation sufficient to obtain judgment in full in the event of a subsequent default by the debtor.

5. The Vendor shall utilize appropriate and legal sources to locate debtors and their assets including the name of employer, place of employment, real and personal property, and location of bank accounts.

6. The Vendor shall have a computer system or systems that sufficiently record and monitor every procedural step of each matter referred by the City including, but not limited to, retaining a record of the date, time, and content of all conversations between debtors and successful Vendor's employees, agents or contractors.

7. The Vendor shall furnish, at no charge to the City, photocopies of all judgments in favor of the City. For any matters arising in the Denver County Courts, the Vendor may furnish a copy of the judgment information by downloading such information from denvergov.org and delivering a copy to the City within fifteen (15) days of entry by the court. (All such information concerning judgments may be delivered electronically.) The City recognizes that due to the financial limitations of the Courts that timely entry of judgments or processing may be delayed. Photocopies of signed and approved stipulations for judgment or for judgment upon default shall also be provided to the City.

8. If the Vendor fails to timely perform any act or provide any service necessary to protect the City's interests in the accounts referred to the Vendor, and which causes a forfeiture of an assigned debt, then the Vendor shall be liable to the City for the full amount of the debt's unpaid balance as of the date of forfeiture.

9. The Services shall be governed by any and all applicable federal, state, and local laws, rules regulations, ordinances, policies, including but not limited to the Accounts Receivable Collections Rules set forth at 1 CCR 101-6.. The Vendor's strict compliance with the above rules shall be a contractual obligation of the Vendor. The Vendor shall comply with all applicable Federal, State and City laws, ordinances, codes, regulations, rules, executive orders, and policies whether or not specifically referenced herein including but not limited to the Federal Fair Debt Collections Practices Act, the Federal Fair Credit Reporting Act, and the Colorado Fair Debt Collection Practices Act and other state and federal consumer protection and collection practice laws. In particular, the Vendor shall perform the duties and satisfy the requirements of all applicable laws, regulations, and policies as may be amended from time to time.

10. The City reserves the right, in the City's sole discretion, to reduce, modify, increase or eliminate at any time the balance of any debt assigned to the Vendor for collection. If the City determines to reduce or modify the balance of any debt assigned to the Vendor, the Vendor shall only be entitled to recover

collection fees on the reduced debt actually collected. The City shall reasonably endeavor to direct debtors to remit monies to its designated Vendor, if any, if the debt has already been referred by the City. However, if the City receives monies directly from a debtor on a previously referred debt, the Vendor shall receive no compensation for those payments.

1.b. Additional Requirements:

In addition to proposing on the required items listed above, the Vendor shall demonstrate its ability to provide all of the following services:

1. The Vendor shall be responsible for providing a sufficient number of experienced collection agents to efficiently and expeditiously collect the referred accounts.

2. The Vendor shall provide to the City the services of at least one (1) attorney, duly licensed and authorized to practice law in Colorado, to provide legal services.

3. The Vendor will have expertise in collections law, bankruptcy law, and other legal areas necessary to provide the Services.

4. The Vendor shall also furnish at its own expense secretarial services, investigative services, office space and supplies, capital equipment, discovery costs, and other services reasonably necessary to provide professional legal representation.

5. A sufficient number of collection agents and paralegals shall have proficient skills in speaking, reading, and writing Spanish and shall use the Spanish language where appropriate during the provision of Services.

6. The Vendor shall provide all training and supervision of attorneys and collection agents employed by Vendor necessary to furnish professional legal representation, and professional collection services. The Vendor shall designate a lead/supervising attorney or Account Manager for these purposes. The lead/supervising attorney shall be responsible for maintaining full-time coverage of the designated City appearances and shall be available upon reasonable notice to confer with the City regarding legal representation being provided.
 - a. The lead/supervising attorney will assume full responsibility for the quality and quantity of the legal representation in and out of court.
 - b. The lead/supervising attorney will assume full responsibility for the quality and quantity of the work performed by the collection agents concerning the referred accounts.

7. The Vendor shall represent the City upon appeal of any case for which the Vendor provided representation in court.

8. The Vendor shall provide all other legal and collection services necessary and appropriate to represent the City.

9. It is further understood and acknowledged that the Vendor will, for the successful collection of parking ticket and photo enforcement violations, deposit directly all gross amounts collected or recovered into a City bank account, in accordance with the terms and conditions of its agreement with the City. The Vendor will submit a monthly invoice along with a detailed and verified financial statement of the previous month's collection and legal services in accordance with the terms of its agreement with the City. Payment for the successful collection of parking ticket and photo enforcement violations will be in accordance with the compensation proposed and accepted by the City. The method of payment for collection efforts of parking ticket and photo enforcement violations will be by reimbursement only and will be administered by DOTI and DPD respectively.

1.c Monthly Reports:

The Vendor shall submit to the City, by no later than the twentieth day of each month, the following reports (the "Reports"). All reports shall be separated between ROWE and DPD.

1. **Debtor Status Report:** This report shall include the account name and number assigned by the City, the date the account was assigned to the Vendor (also known as the "turnover" date); the beginning balance, amounts collected, current balance, and collection status of the account as defined by the Vendor.

2. **Collection Analysis Report.** This report shall include the total number of accounts assigned to the Vendor, the total outstanding amounts owed to the City on such accounts, gross collections in dollars and Collections matched against the month the account was placed with the Vendor, collection fees in dollars and accounts (identified individually and in the aggregate) that the Vendor has determined to be uncollectible.

3. **Other Reports.** The Vendor shall prepare and submit any other report or information pertaining to collection and legal matters assigned to the Vendor as reasonably requested by the City.

4. **Format/Verification/Late Reports.** The Reports required by this Article shall be provided in three formats: the preceding month, the preceding quarter, and year-to-date aggregate data. All Reports shall be verified by the Account Manager of the Vendor. If the Vendor does not submit required Reports

when due, the City may withhold any payments payable to the Vendor under the awarded contract or it may invoke any remedy provided in the awarded contract or otherwise available to the City by law.

5. Delivery of Reports. All Reports concerning Class Three Debts shall be electronically delivered to Director, Finance and Administration Division, Department of Transportation and Infrastructure. All reports concerning Class Four Debts shall be delivered to Photo Radar Enforcement, Denver Police Department Traffic Operations Bureau. Email addresses for the City contacts will be provided upon execution of contract.

The City reserves the right to require such additional information on the monthly financial statement or to request and receive other documentation, as it deems appropriate to review the services provided by the Vendor. All reports submitted to the City shall be considered confidential attorney-client privileged documents and shall remain as such until and unless otherwise directed by the City Attorney.

6. Data Bases the Property of the City. Notwithstanding any other term or condition of the awarded contract, all documents, reports, plans, information contained in electronic databases, electronic files, or other written products created for the use of the City under the awarded contract shall be the exclusive property of the City for all purposes and shall be readily accessible by or provided to City for municipal purposes in such manner and format as reasonably designated by the City Attorney.

2.COMPENSATION FOR SERVICES:

1. Classification of Debts. To assist Vendor in preparing a response, the definitions listed below are intended to provide background for the current structure of the City's sources of debt addressed in this RFP. a. Parking Violations Debts (also known as "Class Three Debts"). "Class Three Debts" shall consist of all debts, fines, fees, and other unpaid charges owed to the City for parking violations issued by or on behalf of the City and County of Denver, pursuant to the Denver Revised Municipal Code." Class Three Debts shall further be divided by date as follows: i. Class Three Debts Arising on or after October 1, 2020. "Class Three Debts Arising on or After October 1, 2020" shall be accounts receivable debts arising on or after October 1, 2020; and

ii. Class Three Debts Arising Before October 1, 2020. "Class Three Debts Arising Before October 1, 2020" shall be accounts receivable debts arising before October 1, 2020.

b. Photo Radar/Photo Red Light Violations Debts (also known as "Class Four Debts"). "Class Four Debts" shall consist of all debts, fines, fees and other unpaid charges owed to the City for photo radar and photo red-light citations or violations issued by or on behalf of the City, pursuant to the Denver Revised Municipal Code. Because DPD, currently, does not have an interim collection model, the debts for Photo Radar/Phot Red Light Violations will be for all eligible debts.

The City reserves the right to determine in its sole discretion the date upon which an account receivable debt arises.

2. Method of Compensation. The “Compensation” to be provided to the Vendor shall be as follows: a. Class Three and Class Four Debts: Except for those debts settled by the Vendor in accordance with Article 2.B(1) b and c, in the Sample Contract in Section D, the Vendor shall be compensated, as full and complete compensation for all collection and legal activities concerning Class Three and Class Four Debts, an amount not to exceed all or a portion of the collection fees authorized by D.R.M.C §53-403(b) according to the schedule set forth below that directly and proximately results from the Vendor’s services and successful collection of debts owed to the City.

Amount of Debt	Authorized Collection Fee	Vendor’s Fee
\$0.01 - \$50.00	\$20.00	\$20.00
\$50.01 - \$100.00	\$30.00	\$30.00
\$100.01 - \$150.00	\$40.00	\$40.00
\$150.01 - \$200.00	\$60.00	\$60.00
\$200.01 - \$300.00	\$80.00	\$80.00
\$300.01 and above	30% of debt amount	81.67% of the 30% collection fee

b. Settlement of Class Three and Class Four Debts: With respect to all collection and legal activities concerning Class Three and Class Four Debts in which the settlement of a debt is negotiated and accepted by the Vendor for less than the full amount of the debt due to the City in accordance with the written approval of or guidelines from the City, the Vendor shall be compensated in accordance with the fee schedule set forth above.

c. Payment Plans Using Periodic Installments for Class Three and Class Four Debts: With respect to all collection and legal activities concerning Class Three and Class Four Debts, in which the Vendor establishes a periodic payment plan in accordance with the written approval of or guidelines from the City, the Vendor shall be compensated in accordance with the fee schedule set forth above.

d. Attorneys’ fees. In the event that the Vendor successfully obtains an award of Attorneys’ Fees by a court of competent jurisdiction and to the extent that such attorneys’ fees are recoverable by law or other binding agreement, the Vendor may retain said fees.

e. Litigation costs and expenses. The parties intend that the City’s preferred method to compensate the awarded Vendor for the costs of litigation shall be for the Vendor to recover all said costs from monies obtained from the Vendor’s successful collection of debts owed to the City (either as a result of the Vendor’s collection activity or as a result of an award of attorney’s fees). Until such time as the awarded

Vendor recovers litigation costs from collection activity or an award from the Court, the City will reimburse the Vendor for reasonable litigation costs, as described in the sample contract to this RFP. The City's maximum obligation under any resulting contract or contracts to pay for litigation costs and expenses incurred during the three-year period beginning October 1, 2021 and ending on October 31, 2024, cannot and will not exceed \$1,500,000. ~~The maximum annual obligation to pay for litigation costs and expenses cannot and will not exceed the sum of \$424,000.~~

f. Pre-litigation costs and expenses. The City will not reimburse the Vendor for costs and expenses incurred for collection activity that occurred prior to the filing of a summons and complaint.

g. Additional Information. It is acknowledged and understood that "attorneys' fees" means fees awarded by the Court for services actually provided and expenses actually incurred. In no event shall the term "attorneys' fees" include the amount of any debt, or any portion thereof, owed to the City and recovered by the Vendor.

The Vendor shall have no expectation to receive from the City and the City shall not be obligated to provide compensation by any other method of payment including, but not limited, to "Hourly fees", "Out-of-Pocket Expenses", "Reimbursement of Costs" or "Flat Rates".

It is understood and agreed that the Vendor shall be paid entirely from the monies recovered and received during the provision of the services. Unless otherwise agreed to by an Agreement executed by all required City officials, the City does not intend and shall have no obligation to appropriate funds for the purpose of any resulting contract for collection and legal services. It is further acknowledged by all Vendors that any and all payment obligation of the City hereunder, whether direct or contingent, or for any other incidental cause, shall extend only to funds appropriated by the Denver City Council, paid into the Treasury of the City and encumbered for these purposes. It is presumed that all Vendors acknowledge that (i) the City does not and will not irrevocably pledge present case reserves for payments in future fiscal years, and (ii) neither this RFP nor any resulting Agreement is intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

3 TERM

The effective period of the contract resulting from this proposal shall be from date of City signature to and including October 31, 2024. The City and the vendor may mutually agree to renew and continue this agreement for additional periods of one year at the same prices, terms and conditions. However, no more than two (2) yearly extensions shall be made to the original agreement.

4 TRANSITION

At the end of the agreement, all uncollected accounts will be turned over to the City and the City will provide them and all new eligible accounts to the awardee of the new agreement.

5 RECEIPTING REQUIREMENTS:

5.a Purpose

The purpose of these requirements is to provide direction to City departments and potential vendors concerning payment receipting and cash management practices in order to maintain compliance with the City's Charter, Revised Municipal Code and Department of Finance requirements. These

requirements are used for, but not limited to, development of Request for Proposals, implementation or modification of systems involving receipt or deposit of payments, and development or modification of City cash handling practices.

5.b Authority

- City Charter Article II – Mayor and Executive Departments, Part 5 – Finance, §2.53 and §2.54
- Revised Municipal Code – Chapter 20 – Finance, Article III – Disposition of Funds, Division 2 – Handling of Receipts and Procedures for Making Refunds, Section 36 and 38

Any implementation or process involving payment, receipt, cash handling or banking of City funds (as defined by Denver Revised Municipal Code 20-36) shall be approved by and coordinated directly with the City's Cash Management Section within the Department of Finance's Cash and Capital Funding Division. The Department of Finance has the authority to establish what forms of payment the City accepts and what mechanisms and accounts are used to process and deposit payments.

5.c Requirements

1. Funds (as defined by Denver Revised Municipal Code 20-36) gross of any fees are the property of the City and shall settle directly to a City-owned bank account.

2. Funds shall be deposited daily by either electronic or physical delivery into a City-owned bank account. Any third-party service handling funds for transport to the bank shall be bonded; the City's preferred method for physical bank delivery is via armored courier.

3. Credit card payments shall be processed through a City-owned Merchant Identification code (MID) issued by the Cash Management Section under the existing merchant services agreement managed therein. Any third-party system integrations shall certify to process with the City's existing merchant services provider prior to implementation.

4. Systems, payment architecture and procedures implemented shall be currently certified Payment Card Industry Data Security Standard (PCI DSS) compliant, be reviewed and approved by the Cash Management Section and City's Data Security Team and/or identified as out of scope by the City's Data Security Team prior to selection or implementation.

5. Systems, payment architecture and procedures shall comply with the National Automated Clearing House Association (NACHA) and applicable rules and regulations surrounding Fedwires when processing electronic funds transfers. ACH and/or Wire payment mechanisms shall be reviewed and approved by the Cash Management Section prior to implementation.

6. Any additional payment, receipt, cash handling or banking products or services such as lockbox, online services, point-of-sale or other receipting or transfer mechanisms shall operate using the City's currently contracted providers as overseen by the Cash Management Section. If a business need cannot be met with currently contracted providers, the proposed solution and processing structure shall be reviewed and approved by the Cash Management Section.

7. If a third-party is involved in the payment, receipting, cash handling or banking process, the initiating City department or designee shall coordinate the structure, process and implementation with the Cash Management Section and the third-party. All payment, receipting, cash handling or banking structures and processes shall be reviewed and approved by the Cash Management Section prior to selection and implementation. The City's Department of Finance has final approval of all payment, receipting, cash handling or banking structures and processes.

5.d Policies and Procedures

- Fiscal Accountability Rule 3.3 – Change Funds and associated procedures and forms
- Fiscal Accountability Rule 3.4 – Receipts and Deposits and associated procedures and forms

Exhibit B-1

Fee Schedule

Method of Compensation. The “Compensation” to be provided to the Vendor shall be as follows: a. Class Three and Class Four Debts: Except for those debts settled by the Vendor in accordance with Article 2.B(1) b and c, in the Sample Contract in Section D, the Vendor shall be compensated, as full and complete compensation for all collection and legal activities concerning Class Three and Class Four Debts, an amount not to exceed all or a portion of the collection fees authorized by D.R.M.C §53-403(b) according to the schedule set forth below that directly and proximately results from the Vendor’s services and successful collection of debts owed to the City.

Amount of Debt	Authorized Collection Fee	Vendor’s Fee
\$0.01 - \$50.00	\$20.00	\$20.00
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\$100.01 - \$150.00	\$40.00	\$40.00
\$150.01 - \$200.00	\$60.00	\$60.00
\$200.01 - \$300.00	\$80.00	\$80.00
\$300.01 and above	30% of debt amount	81.67% of the 30% collection fee

Settlement of Class Three and Class Four Debts: With respect to all collection and legal activities concerning Class Three and Class Four Debts in which the settlement of a debt is negotiated and accepted by the Vendor for less than the full amount of the debt due to the City in accordance with the written approval of or guidelines from the City, the Vendor shall be compensated in accordance with the fee schedule set forth above.

c. Payment Plans Using Periodic Installments for Class Three and Class Four Debts: With respect to all collection and legal activities concerning Class Three and Class Four Debts, in which the Vendor establishes a periodic payment plan in accordance with the written approval of or guidelines from the City, the Vendor shall be compensated in accordance with the fee schedule set forth above.

d. Attorneys’ fees. In the event that the Vendor successfully obtains an award of Attorneys’ Fees by a court of competent jurisdiction and to the extent that such attorneys’ fees are recoverable by law or other binding agreement, the Vendor may retain said fees.

e. Litigation costs and expenses. The parties intend that the City’s preferred method to compensate the awarded Vendor for the costs of litigation shall be for the Vendor to recover all said costs from monies obtained from the Vendor’s successful collection of debts owed to the City (either as a result of the Vendor’s collection activity or as a result of an award of attorney’s fees). Until such time as the awarded Vendor recovers litigation costs from collection activity or an award from the Court, the City will reimburse the Vendor for reasonable litigation costs, as described in the sample contract to this RFP.