

AMENDATORY AGREEMENT

This **AMENDATORY AGREEMENT** is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **EZLINKS GOLF, LLC**, a Delaware limited liability company registered to do business in Colorado, whose address is 401 S. LaSalle Street, Suite 302, Chicago, Illinois 60605 (“Contractor”) collectively (the “Parties”).

WITNESSETH:

WHEREAS, the Parties entered into an Agreement dated April 5, 2013 (the “Agreement”), relating to the implementation of a Golf Enterprise Management Application; and

WHEREAS, the Parties wish to amend the Agreement to update the statement of work, extend the term and potentially engage a credit card payment portal and add other on-line functionality.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations herein set forth, the Parties agree as follows:

1. All references to “...Exhibit A...” in the existing Agreement shall be amended to read: “...Exhibits A and A-1...”. The additional statement of work marked as Exhibit A-1 is attached and incorporated by reference. Addendums 1 and 2, part of Exhibit A-1, are incorporated into the Agreement.

2. Article 3 of the Agreement entitled, “**TERM**” is amended to read as follows:

“3. **TERM**: The term of the Agreement is from March 1, 2013 (“Effective Date”) through February 28, 2023.”

3. In the event that Exhibit A-1 is fully implemented, the Contractor will be working with personally identifiable information of patrons of the Golf Enterprise and processing credit card information. In either event, Contractor agrees that the terms and conditions set out in Addendum 1 shall apply to Contractor. Contractor further agrees to comply with the terms set out in Addendum 2, attached, when processing credit card payments.

4. This Amendatory Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument.

5. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

[SIGNATURE PAGES FOLLOW]

EXHIBITS

EXHIBIT A-1

ADDENDUM 1

ADDENDUM 2


STATEMENT OF WORK

CLOUD AND PCI REQUIREMENTS

RECEIPTING REQUIREMENTS

Contract Control Number: TECHS-201309960-01

Contractor Name: EZLinks Golf LLC

By: 

Name: GARY COHEN
(please print)

Title: CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



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-1

STATEMENT OF WORK

Golf Enterprise Management Application Upgrade
City and County of Denver Parks and Recreation Department

SECTION A: Project Title

Project Title – Golf Enterprise Management Application Upgrade

This SOW, effective as of date of execution of the First Amendment to Agreement (“SOW Effective Date”), is pursuant to the Agreement between EZLinks Golf LLC, successor in interest to EZLinks Golf, Inc. (“EZLinks” or “Contractor”) and the CITY AND COUNTY OF DENVER (“City”), as amended by the First Amendment on or about March 15, 2018 (collectively, the “Agreement”). Capitalized but undefined terms in this SOW will have the meanings ascribed to them in the Agreement. The term of this SOW is concurrent with the Agreement (“SOW Term”). This SOW is subject in all respects to and governed by the terms of the Agreement.

All Services related to this project are being performed by Contractor for the implementation of an upgrade to the previously installed enterprise solution for all Denver Parks and Recreation (DPR) golf courses, driving ranges, administrative facilities, and pro shops, as such previously installed system is described in Exhibit A to the Agreement.

SECTION B: City and County of Denver Key Stakeholders

Project Sponsor

Name: Fred Weiss
Parks and Rec Finance Director
City and County of Denver
Address: 201 West Colfax
City: Denver
State and Zip: Colorado 80202
Phone: 720-913-0735
Email: fred.weiss@denvergov.org

Business Lead

Name: Scott Rethlake
Golf Director
City and County of Denver
Address: 2500 York St
City: Denver

State and Zip: Colorado 80205
 Phone: 720-865-3422
 Email: scott.rethlake@denvergov.org

Business Analyst

Name: Greg Tenenbaum
 Business Analyst
 Technology Services
 City and County of Denver
 Address: 201 W. Colfax
 City: Denver
 State and Zip: Colorado 80202
 Phone: 720-913-5219
 Email: Greg.Tenenbaum@denvergov.org

SECTION C: Project Overview

The project described in this SOW will consist of the implementation of an upgrade for the City to EZSuite Point of Sale in a centralized environment with an integration to the existing EZLinks Tee Sheet previously installed by Contractor:

<u>Products</u>	<u>Description</u>
EZSuite <ul style="list-style-type: none"> • Point of Sale • Central Gift • EZIntel • Central A/R • Integrated Accounting file • Central Loyalty 	New Central Point of Sale
EZTee Pro <ul style="list-style-type: none"> • Integration to EZSuite 	Existing Tee Sheet
EZ24 Pro	Existing Reservation Center

The project described in this SOW will be installed at the Denver golf courses, driving ranges and city administration facilities listed below:

- Harvard Gulch Golf Course (9 holes - 1 POS machine)
- City Park Golf Course (18 holes – 2 POS machines; 2 EZTee Pro Tablet Packages)
- Overland Golf Course (18 holes – 2 POS machines; 2 EZTee Pro Tablet Packages)
- Wellshire Golf Course (18 holes – 2 POS machines; 2 EZTee Pro Tablet Packages)
- Kennedy Golf Course (27 holes – 4 POS machines; 4 EZTee Pro Tablet Packages)
- Evergreen Golf Course (18 holes – 2 POS machines; 2 EZTee Pro Tablet Packages)
- Willis Case Golf Course (18 holes – 2 POS machines; 2 EZTee Pro Tablet Packages)
- Aqua Golf Driving Range and Miniature Golf (36 holes – 2 POS machines)
- Webb building QA environment (2 POS QA machines) EZTee Pro Tablet Packages
- Parks and Recreation Administrative and management users in the Webb building
- Finance users in the Webb building
- Marketing users in the Webb building
- Golf administration at City Park and Webb Building

Contractor's POS and tee sheet system includes the following core functionality:

- Online Reservations
- Online Presence
- Tee Sheet
- Inventory
- POS
- Loyalty Program
- Reporting
- Marketing
- General Administrative Functions
- Accounting & Financial Upload and Reporting
- Offline Processing
- Auditing
- Documentation & Reference
- Customer Module Accounts Receivable (A/R)

- Tournaments/Leagues

1. AVAILABLE SOFTWARE & SERVICES: The following charts include a general description of available Software and Services for City to select in the Payment Section of this SOW below, along with applicable City requirements.	
FEATURES	REQUIREMENTS
<p>The EZLinks Tee Sheet Network (ETN) includes:</p> <ul style="list-style-type: none"> • Tee sheet (includes unlimited licenses) • Multi-course / cross-course booking • Revenue reports • Rapid reserve • Auto turn times • Member icons • Photo ID feature 	<p>City must have a license for any computer on City property needing access to the EZLinks Tee Sheet Network (ETN). Access is provided via an executable file downloaded onto each computer. Should a facility download the ETN executable file onto a central server and have the staff remotely access the file from any computer on property, licenses will be required for each computer remotely accessing the file.</p> <p>The initial installation time for a course utilizing only the ETN is generally two (2) days.</p> <p>City is required to maintain active rack rates and regular rates at all times. City is required to update course information details and notify EZLinks of the same within twenty-four (24) hours of any changes.</p> <p>For any equipment City provides for use with the ETN, that equipment must meet or exceed the minimum specifications detailed below and requires a technical review and approval by an EZLinks implementation representative:</p> <ul style="list-style-type: none"> • Personal Computer (PC) –Windows 7 or a newer release with a 2GHz Pentium/Celeron processor or greater, minimum 2GB of RAM (3GB if using EZ POS), 40Mb of available hard drive space, and a video card that can support at least 1024x768 video resolution and at least 256 colors. • Printers – EZLinks provides Windows 7 compatible laser printers as part of the standard hardware package. Client provided printers, ink-jet or laser, are not required to be Windows 7 compatible but are not ensured to print all reports in standard format. • Network – computers and printers must be networked by City and able to support TCP/IP protocol. Unless City provides an internal, compatible IP scheme to EZLinks in advance of installation, EZLinks will assign its own IP scheme to City's computers.

<p>The EZLinks Point of Sale (EPOS) simplifies sales, manages inventory and supports customer service. EPOS includes:</p> <ul style="list-style-type: none"> • Point of sale (EPOS) software • Retail inventory management • Rain check management • Gift cards / gift certificates • Loyalty / activity card programs • Reporting • Membership and A/R tracking • Recurring billing • Recurring credit card charging • Centralized: <ul style="list-style-type: none"> ○ Inventory management ○ Gift cards ○ Loyalty ○ Reporting 	<p>The initial installation time for a course utilizing the full EPOS and ETN is generally 4.5 days. EPOS-only installation is generally 3.5 days.</p> <p>City will update course information details and notify EZLinks of the same within twenty-four (24) hours of any changes.</p> <p>For any equipment City provides for use with EPOS, the equipment must meet or exceed the minimum specifications detailed below and requires a technical review and approval by an EZLinks implementation representative (see ETN section for details).</p>
<p>Integrations and Interfaces (INT) include:</p> <ul style="list-style-type: none"> • Interfaces between ETN and third-party online portals and wholesalers • Integrated credit card processing 	<p>ETN is required for third-party reseller interfaces to the reservation system.</p> <p>EPOS is required for accounting integrations, range software interfaces and property management system interfaces.</p>

<ul style="list-style-type: none"> • EPOS to accounting system interfaces 	
<p>Web Reservation Engine (WRE) includes:</p> <ul style="list-style-type: none"> • Golf course website booking module • Golf course specials • Built-in analytics • Prepayment options • Multi-course display • Mobile and social booking modules 	<p>ETN is required for all web reservation functionality.</p>
<p>Reservation Center (RES) includes:</p> <ul style="list-style-type: none"> • Staff on Demand Service • Customer service representatives • Custom on-hold messages • Customer data capture • Quality monitoring • Flexible call forwarding options <ul style="list-style-type: none"> ○ All calls ○ Busy/no answer ○ After hours 	<p>City's ability to utilize the Reservation Center is based on the capabilities of the local telephone exchange carrier and City's telephone equipment.</p>

<p>Marketing Suite (MKT) includes:</p> <p>Auto-triggered emails:</p> <ul style="list-style-type: none"> • Custom email confirmations • Alert / notification emails • Database marketing assistant widget <p>Promo code engine:</p> <ul style="list-style-type: none"> • Custom discount tool • Implement multiple campaigns simultaneously • Campaign-specific tracking <p>Email Marketing Service</p> <ul style="list-style-type: none"> • Promotional email service (36 per year per facility for a total of 288 per year) <p>Custom Website and Mobile App</p>	<p>ETN is required for auto-triggered emails and promo code engine.</p>
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<p>Revenue Management Tools (REV) include:</p> <ul style="list-style-type: none"> • Distribution channel management • Yield management • Dynamic pricing module 	<p>ETN and Web Reservation Engine are required for implementation of dynamic pricing module.</p> <p>ETN is required for custom report generation.</p>
<p>Service and Support (SVC) with ETN or EPOS software include:</p> <ul style="list-style-type: none"> • Installation • 24/7/365 support line • Tee sheet software updates • EPOS updates 	<p>ETN and/or EPOS are required and many support updates require City connectivity.</p>
<p>Directory Rounds</p>	<ul style="list-style-type: none"> • City authorizes Contractor to offer golfers the ability to book Rounds at City courses via Contractor platforms and their outlets (e.g., TeeOff.com) (“Contractor Platforms”). • City will control and make available via the ETN any number of regular and/or dynamically priced Rounds to Contractor per day, as available, a number of days in advance of play consistent with City’s policy for regular golfers. The Rounds allocated for directory rounds are in addition to any Rounds allocated elsewhere in this or any other SOW. • City agrees to provide Contractor with City photos for marketing of the City’s’ course(s). City represents that all such photos will be fully cleared (e.g., for copyrights, rights of publicity, etc.) for commercial use by Contractor in all mediums (including, without limitation, on the internet, in print and via mobile distribution channels). • City agrees to honor all golfer reservations booked through the Contractor Platform. • Contractor may charge golfers a service fee in connection with City’s Rounds, but only with prior written permission from the City (e-mail permission will suffice). Unless otherwise agreed, such service fees will be retained by Contractor. • City may elect to have Contractor price and sell its Directory Rounds for the City, in which case EZLinks will have the option of price parity. • Consideration for the sale of Directory Rounds will be based on commission, and is addressed in Section H.

System will allow for dedicated access to the POS by golf course and other administrative staff at the City's facility locations, a hybrid client which communicates to a centralized database hosted by Contractor via an internet connection at a specific address for tee sheet activities for staff use and a web portal for customers to access reservations and other general golf course information via the Denvergov.org website. Additionally, the system will have the capability to support customer tee time reservations via phone. The payment gateway used in all credit and debit card transactions will be hosted by a separate gateway vendor contract. City will cause the gateway vendor to encrypt (tokenize) all credit card data and to comply with all PCI requirements while transactions are in transit. Contractor will provide the ability to enter card member data but then promptly remove data from the system. City will cause the gateway vendor to provide the credit card swipes required for card swipe functionality.

Back Office Machines

Machines must be able to access the tee sheet and POS but are not able to process any POS transactions. Back Office Machines must also be able to perform daily reconciliation and deposit functions. These machines do not have the POS peripherals.

Hardware

The City is responsible for all terminal servers and for the central database (for all POS data), to include all necessary hardware, at the expense of the City and County of Denver. These machines must meet the system specs outlined by both the Contractor and the City and County of Denver. Contractor will provide the hardware and peripherals for workstations at each golf course, in either a "two workstation package" or a "four workstation package" as indicated for each course in the newly amended SECTION H as set forth below in this Amended SOW. Upon expiration or earlier termination of this Agreement, the City will within fifteen (15) days of such expiration or termination, return all such hardware to EZLinks in the condition in which it was provided to the City, normal wear and tear excepted, at City's sole cost and expense (F.O.B. delivery point).

SECTION D: Scope of Work, Deliverables, and Acceptance Criteria

The system must address the following core functionality and implementation requirements.

General Scope of Work

Technical Requirements – The POS and Tee sheet system must be compatible with W7 64bit and have a disaster recovery solution available in the event of a system failure. DPR requires existing customer data, POS data (if applicable) and course/fee configuration be imported automatically into the new POS/tee sheet solution and involve minimal DPR staff time. Contractor must ensure that an FTP connection can be made to the production database to download database (During the implementation, and post implementation). Contractor must replicate DPR test environment with both a test and QA machine. System must have the ability to provide high availability and scalability to support high volume transaction rate periods. Additionally, the system must provide the ability to monitor all system resources for the Tee Sheet and

hosted data applications.

Maintenance and Support – The system and Contractor processes must allow for streamlined maintenance and support for both routine issues and unplanned outages. Regardless of the circumstance, the maintenance must be performed using commercially reasonable efforts toward causing the least amount of impact to the City as possible during business hours. When possible, maintenance must be performed after business hours. If maintenance is scheduled, Contractor must provide ample time for the City to plan for any business impacts and to ensure the City technology team has assessed the impact. Ultimately, and except for planned downtime, maintenance and events of force majeure, Contractor will use commercially reasonable efforts achieve a 99.5% uptime for tee sheet and hosted data applications in any month. Any expected material non-mandatory software updates or releases must be provided to City well in advance of general release date and ultimately the City must approve the change after testing it in the QA environment. Contractor support team must be reasonably able to work with city of Denver IT to troubleshoot whether an issue is network or system related. This troubleshooting must also help identify if the issue is a configuration or a defect issue with the system. If an issue persists and it is not related to an issue on the City's side or the hardware, the Contractor must have an escalation process to ensure the issue receives more attention. EZLinks will use commercially reasonable efforts to temporarily resolve critical defects in EZLinks' Software, via a software patch or workaround until the defect can be fixed and included in the next software release. The City agrees to make golf course staff available to help analyze the cause of any issues related to EZLinks' Software and provide help if possible. Golf staff must have the option to contact the Contractor support hotline when a failure or problem occurs and assist with any 3rd party vendor involvement.

Database – The primary database must be synchronized with the backup database on a frequent basis. In the event of a catastrophic failure the backup database must serve as the primary production database until the production database is restored. Each local database and the central database must handle a minimum of 7 years of data created by the organization. Contractor must provide a Disaster Recovery and data backup plan which must be approved by the City of Denver.

City Software Requirements – The City and County of Denver installs and maintains a standard set of software on all desktops and laptops. All software that is acquired by the City and County of Denver must be compatible with the expected environment. The system must work with the following technical requirements:

Software Type	Software Name	Technical Requirement
Operating System	Microsoft Windows	Win 7 Professional SP1 64-bit Win 10 Version 1511 and above
Browsers	Internet Explorer	Current Release
	Google Chrome	Current Release
Office Suite	Microsoft Office	O365 Office 2016
Software Framework	Microsoft .NET	Current Release
Java	JRE	Current Release
Adobe	Acrobat Reader	Current Release
	Flash Player	Current Release
	Shockwave	Current Release
Multimedia Framework	HTML 5	Current Release
External Drives	McAfee Encryption	Current Release

Disaster Recovery – Upon determination if Contractor is responsible or involved in an outage, Contractor will use commercially reasonable efforts to failover to a disaster recovery solution within 90 minutes of catastrophic failure if the catastrophic failure occurs during normal business hours. This failover must restore basic services to allow for tee sheet bookings (with the understanding that POS redundancy is the responsibility of the City). Documentation must be provided that shows a successful failover test and that briefly describes the process and DPR involvement. System must also make use of technology to ensure minimal operations can continue in the event of a network or internet outage. All Contractor systems (including power supplies that exist at Contractor’s facilities) that support the POS and the tee sheet must be fully redundant and included in the disaster recovery solution. Contractor will use commercially reasonable efforts to restore services from a backup regional facility within two hours in the event of the loss of the hosting facility environment only (cooling, electrical power, network connectivity) that is not related to a disaster.

Performance/Functionality

Online Reservations and Online Presence – Contractor must follow the following City and County of Denver Technology Services Web Application Development Standards for denvergov.org

- Search Engine Optimization (Google analytics or similar product)
- Colors and fonts
- Logo usage guidelines
- Header and footer content Accessibility guidelines

System must be made accessible for persons with disabilities following Priority One items in Section 508 amendment to the US Government’s Rehabilitation Act which are listed below.

TEXT ALTERNATIVE

One of the basic principles to understand about web site accessibility is that there should be a text equivalent for all non-text content. In most cases, you can include this text version right there in the same document, and with some forethought should require minimal extra work. This applies to images, Flash objects, and other types of multimedia.

COLOR

Section 508 guides developers to create designs where meaning is conveyed through other means beyond color. This is to avoid ambiguity for the meaning of a given element on a screen. It’s important to note that Section 508 stipulates that your site must be readable without a style sheet. If you’re using CSS, this means that through the use of semantic markup or context, you should be able to communicate any information regardless of whether color conveys meaning. Test your color scheme for accessibility at <http://colororacle.org/>.

LAYOUT AND POSITIONING

Table based layout for web pages is not permitted. The only acceptable use for tables is for displaying data on a grid. All content must be presented using a div-based layout, separating content from design with the use of cascading style-sheets (CSS).

IMAGES

All images must include one of the most basic text equivalents: alternate text in the `alt` attribute on image tags. To check if the alternate text of your images is helpful, disable images the next time you visit your site. The alt text you see should help you understand

the image or what it represents. Follow these guidelines for alt text.

- Alternate text should be helpful.
- If a graphical element is used only for decoration, alternate text is not required.
- Images should not contain instructional content, or have text flattened into them that could otherwise be provided in HTML format.
- Images should never be used for navigation.

DATA TABLES

It's important to use proper semantic markup when displaying data tables:

- Be sure to use table headers where appropriate (`th`), rather than just styled text
- When using headers, consider adding attributes like `scope` to the table element. This helps with the readability of your table in screen readers. Commonly, table headers relate to a column (`scope="col"`), but you can use headers with table rows as well (`scope="row"`).

Table tags should never be used for page content layout. The only acceptable use for tables is for displaying data on a grid.

SCRIPTS

Section 508 and WCAG both agree that scripts can be an issue with assistive technology. When applications require that Javascript be enabled, explain to your visitors that this is the case and link them to any alternative ways to use the application if JavaScript is not an option.

Section 508 explains that all information should be accessible when using assistive technology, even content created by scripts. Consider using an accessible javascript framework such as JQuery or JQuery mobile to assist with making content accessible.

Form fields

1. Always explicitly link labels and their respective fields using the "for" and "id" attributes.
 - Increase the effective focus area of a field element so that a click on the label registers as a click on the form input element.
 - Do not use form labels as links. Place tips and hints (or help links) in a separate element. *Read the section on Form Usability and Design Standards later in this document.*

2. Values of the "id" attribute **must** be unique in the context of the entire page.
 - Clearly label required fields using the asterisk character "*". *Read the section on Form Usability and Design Standards later in this document.*
3. Add the word "Required" or "*" as a title or alt attribute.
 - Do not rely on color alone.
 - Use fieldsets to group strongly related fields. *Read the section on Form Usability and Design Standards later in this document.*
4. When using fieldsets, give special attention to styling the fieldset by using the approved DenverGov heading styles.
5. New forms and applications must use HTML5 elements and techniques. Use the appropriate HTML5 type attribute for text fields. These include email, url, tel, search, number, and range.
6. Modern browsers provide automatic validation (use "required" attribute, "novalidate" attribute). Mobile browsers provide a custom keyboard (a number pad for type="phone," url-specific keys for type="url," etc.). There is no penalty for using these field types, as they automatically fallback to a plain text field in older browsers.
 - **Exception:** Avoid using the date input type as browser support is unreliable and it conflicts with the jQuery.validate plugin.
7. Use the "placeholder" attribute, but do not rely on it to convey essential information. Internet Explorer versions 9 and below requires a JavaScript shim to display a placeholder. When using the "placeholder" attribute, include the same text in the "title" attribute for greater screen reader support.

Contractor must create a separate landing page to host a reservation system. This landing page can be accessible from <http://www.denvergov.org/DenverGolf/tabid/436819/Default.aspx>

Tee Sheet – System must allow for a unique tee sheet to be set up for each 18 holes at each golf course. Tee sheet options must include straight tee times, shotgun starts, double shotgun starts, staff blocking of tee times, ability to set background colors different for each 9 holes.

Inventory – System must allow for management of inventory within and between different stores/golf courses. Inventory management does not include a connection to automate inventory replenishment with product vendors.

POS – System must include complete POS module to tender a transaction using multiple tender types. Additionally, the POS must be tied to the Tee Sheet for reconciliation purposes. Ability to tender an unlimited number of the following tender types in a single payment transaction and in any combination; check, cash, credit card, customer account, gift card, rain check. Credit card types include Visa, MasterCard and Discover.

Receipting Requirements – Contractor acknowledges the City's *"Department of Finance Cash, Risk and Capital Funding Division Receipting*

Requirements for City Funds” attached to this SOW as Schedule 1 (the “Receipting Requirements”). Contractor will collaborate with the City to ensure that the system does not inhibit the City’s compliance with its Receipting Requirements.

Loyalty Program – The system must track transactions and is able to award points for purchases and redeem points toward the purchase of merchandise and other services.

Reporting – System must provide detailed reports and the ability to customize reports. Reports must also be made available in multiple formats for both staff and customer usage.

IVR – System must provide an automated or live reservation system to allow customers to call in for tee times.

General Administrative – System must provide the ability to perform basic configuration changes and limited customization based on user profile or facility location.

Accounting – System must follow all existing chart string requirements to ensure revenue is booked into the correct GL account within the City’s accounting system. System must provide an automated download of the accounting data to an electronic format suitable for uploading to the City’s accounting system.

Marketing – System must provide basic eMarketing opportunities such as Facebook and Twitter ties as well as target marketing components based on demographics, customer usage and buying patterns. System must provide a way to collect customer contact data. Subject to City’s applicable privacy policies and legally adequate consents obtained by the City, System must provide a way to utilize the customer contact data for purposes of communicating with and advertising to customers. System must provide the ability to allow managers to adjust pricing based on supply and demand.

Performance – Subject to system maintenance and events of force majeure, System performance must remain consistent regardless of time of day and day of week, even during periods of high volume.

Offline Processing – System must be able to perform some offline functionality in the event of a network or internet outage. Solution may include batching of transactions and other activities until connection is restored. Also, during offline periods Contractor must provide a faxed copy of each course’s tee sheet daily.

Auditing – System must allow for both staff and management to perform periodic and regularly scheduled audits on transactions. The system must provide a digital footprint of every transaction to allow for immediate identification of staff member involved.

Documentation – All system releases must be accompanied with release notes and a set of standard documentation to allow for quick reference to existing and new staff employees.

Training – Prior to June 1, 2018, the Contractor will (i) provide one (1) Contractor representative for five (5) days, consisting of a Monday through Friday time period, to conduct training at the City of Denver Administrative Offices, Harvard Gulch Par 3, and Denver Aqua Golf and Miniature Golf Course to conduct training at all of the foregoing locations; and (ii) provide one (1) Contractor representative at each of the remaining golf course locations for five (5) days each, consisting of Monday through Friday, to conduct course-level training.

Applicable Standards – System must follow Payment Card Industry (PCI) standards regarding deployment of software to all POS systems or system that interface with POS machines.

Future Deliverable Functions - City and County of Denver will be included in the development process of these future deliverable functions, but will not be entitled to any ownership or other rights in connection with that development process. The City agrees that Contractor will solely own all results and proceeds of that development process and the City hereby agrees to assign all right, title and interest into all such results and proceeds to Contractor.

Federated Authentication Utilizing the City’s Identity and Access Management (IdM) System.

City and Contractor acknowledge that Contractor currently does not meet the City’s requirement for Federated Authentication and as a condition for the continuation of this Agreement will implement Federated Authentication on or before 12 months from date of execution. Contractor will upon request provide details to the City on the implementation of Federated Authentication and reasonably assure City that Federated Authentication will be fully implemented by this time. For clarity, Contractor and City acknowledge and agree that in order to provide Federated Authentication by the date indicated above, Contractor may need to modify and/or substitute certain hardware or software products listed in this Agreement with others, and so long as such modifications and substitutions do not materially diminish the functionality of the solution, such modifications and substitutions shall not constitute a breach or default of this Agreement. However, in the event that Federated Authentication is not fully implemented on or before 12 months from date of execution, it will be considered a breach of this agreement and the City will be entitled to all remedies under the law.

Other Additional Functionality.

Based on the mutual agreement between both parties on the scope and delivery of work, Contractor agrees to provide the following functionality within the Contractor technology solution to City of Denver on or before the dates indicated below. Should Contractor not deliver by the dates indicated below, it will be considered a breach of this agreement and the City and Contractor may mutually agree to a reduction in payment as penalty until functionality is provided.

- EZEngage: Paymentech integration for ecommerce (ability to process credit cards on provided website's online store through Paymentech via a direct integration with Paymentech) by November 1, 2018.¹
- EZEngage/EZSuite: Integration between EZSuite and ecommerce for gift card sales (when selling gift cards online via provided website, the System will create the gift card within EZSuite POS and input the sales transaction data), by March 1, 2019.
- EZEngage/EZSuite: Integration between EZSuite and ecommerce for inventory sales (when selling inventory online via provided website, the System will input sales transaction data within the EZSuite POS and reduce inventory on hand), by March 1, 2019.
- EZBook Pro: Improved functionality for multi-course and multi-channel responsive booking engines (avoids having to wait for pages to reload after each selection; allows for a single "Apply" option to alleviate this problem), by March 1, 2019.
- EZPrice Pro. Dynamic pricing scheme by day-part to be implemented by July 1, 2018.
- EZSUITE/EZTEE Pro: Paymentech integration via direct integration, Shift4, or suitable gateway acceptable to the City within 3 years from date of execution (see footnote 1).

Acceptance Criteria

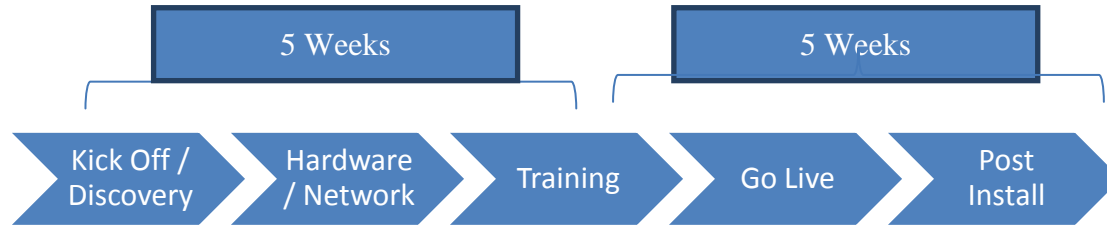
Acceptance of deliverables will be based on agreed upon milestones and deliverables between DRP and the Contractor as indicated in this SOW. The Contractor will deliver a module into the DRP test environment, Denver TS resources along with business test resources will test the module and provide feedback to Contractor either in the form of acceptance of item or reason for failure within 7 business days of submission for testing; however, City may only "Fail" a module if it does not materially conform to the specification document agreed to by the parties in advance of the testing process. A failure to provide any feedback within the feedback window provided in the prior sentence will be deemed an acceptance. If City "Fails" a module in accordance with this paragraph, Contractor will use commercially reasonable efforts to resolve the issue and re-release the module into QA. Once DRP accepts a module in QA the Contractor can then release the item into the production environment. DRP teams will then perform final user acceptance testing and report results to Contractor in accordance with the original acceptance testing process detailed above. If an item fails, the item must be backed up and the Contractor must begin the process again with a release into QA.

SECTION E: Implementation Approach

This section contains descriptions of the proposed application, the services to be provided and general deliverables.

¹ The parties agree that when this added functionality is implemented that additional terms and conditions (Addendums 1 and 2) will be incorporated into the Agreement.

The implementation phase of the application will involve a multi-component process. Tasks and activities of each component and between phases may run concurrently and/or sequential.



Phases

Kick Off / Discovery	Denver Golf Ops / EZLinks Project Manager	Remote GoToMeeting(s)
Hardware / Network	Denver IT	
Code Planning <ul style="list-style-type: none"> • Contacts • Business Practices • Data Requirements 	Denver Golf Ops / EZLinks Implementation Analyst	Remote – 3 Days, Onsite 5 Days
Training	EZLinks Implementation Specialist <ul style="list-style-type: none"> • Denver Golf Ops • Course Managers • Course Staff 	Remote GoToMeeting: 10 - 15 Days

Go Live	EZLinks Training Consultant <ul style="list-style-type: none"> • Denver Golf Ops • Course Managers • Course Staff 	Onsite 5-10 Days
Post Install	EZLinks Post Install Consultant	10 – 30 Days

Objectives

<u>Owner</u>	<u>Deliverable</u>	<u>Date</u>	<u>Delivery Mechanism</u>
EZL Project Manager	Hardware Compatibility List / Discussion	Upon Execution	Phone & Email
Denver IT	Hardware Order	9/15/2018	
Denver IT	Central Server Installations	Upon Execution	
Denver IT	Course Hardware Installations	11/1/2018	
EZL Project Manager	Training Schedule	Upon Execution	Email
Denver Golf Ops	Data Entry / Imports	Due during applicable Training Module	Email / GoToMeeting

Schedule

Task Name	Start	Finish	Duration
Hardware Compatibility	Upon Execution*	1 Day After Execution	1
Hardware Order	Sept 15*	Sept 15	1
Kick Off / Discovery	Upon Execution	2 Days After Execution	2
Code Planning / Imports	Upon Execution	10 Days After Execution	10
Server Installations	Upon Execution	5 Days After Execution	5
Course Hardware	Sept 15	Sept 25	10
Training Week 1	Apr 16	Apr 20	5
Training Week 2	Apr 23	Apr 27	5
Go Live Prep	Apr 30	May 4	5
Onsite Go Live	May 7	May 11	5
Post Install Support (Est)	May 14	Jun 5	20

* Hardware order date dependent on shipping/configuration lead time.

Communication

- Weekly Schedule Recap (email from Project Manager)
- Regular Calls to discuss deliverables with Project Manager
- Introduction Calls with Specialist \ Post implementation

Role	Name and title	Phone
Project Manager	Chad Brown	312-913-6900 x 7101
Lead Analyst	Steve Peple	800-860-2559 x376
Additional Specialist	TBD – one assigned per course	
Implementation Director	Lynn Coziar	312-913-6932
Implementation Manager	Jon Beyer	800-860-2559 x343

Ongoing Support: Post Install

<u>Role</u>	<u>Name and title</u>	<u>Purpose</u>
Post Install Specialist	Cory Sarason	312-913-6974
EZLinks Support Desk		888-995-4657
Customer Success Manager	Michael Poor	312-913-6927

SECTION F: Roles and Responsibilities

<u>Role</u>	<u>Name and title</u>	<u>Responsibilities</u>
Project Coordinator	Chad Brown	Project Management
Implementation Analyst	Steve Peple	Training & Configuration Detail
Implementation Specialist	TBD	Golf Ops / Course Training & Configuration
Denver Golf Ops	Scott Rethlake	Denver Project Manager: Policy / Procedure Requirements, POS Operations, Data validation
Denver IT		Hardware / Network
Course GM		POS Operations, Data Validation
Denver Finance		Accounting Interface, Reporting Requirements & Validation

City and County of Denver Project Manager will be responsible for scheduling of required meetings. The activities and responsibilities of the Denver Project Manager will include:

- Identifying key subject matter experts (SMEs) based on requirements and assign project personnel
- Work with Contractor's project manager to develop the project plan and schedule
- Monitor and drive project progress and results
- Conduct project kick-off and status meeting with the Contractor's project manager
- Allocate and schedule Denver project resources
- Ensure project issues are dealt with promptly and escalated when necessary.
- Actively participate throughout all phases of the project.

- Ensure Denver ‘key users’ are available for design workshops, system setup-up, training and testing.
- Ensure all data files area available for migration to the new system.
- Ensure that the required infrastructure is available as required.
- Review and sign-off on service documents with review committee.
- Project support training activities.

City and County of Denver Project Sponsor will be responsible for the presence of a representative from each of the affected user communities and functional owners to actively participate in the meetings to document day-to-day business processes. At a minimum, each functional owner and representative user community member for each of the functional areas will support these meetings.

- Denver SMEs will provide all Contractor required information on business processes, systems and organizations.
- Denver project team will attend business review workshops and project meetings.
- Denver project manager will ensure SME involvement and project personnel precipitation.
- Denver project sponsor will secure involvement from organization (including third party vendors).
- Installation and setup of demo, development and test environments by Contractor.

SECTION G: Period of Performance

Contractor agrees to target the dates of Feb, 1st 2018 through May 15th, 2018 for implementation and upgrade of City of Denver courses to EZSuite Pro. Project will commence upon full execution of the First Amendment to Agreement between the City and Contractor. Duration of this SOW is approximately five (5) years, terminating on February 29, 2023.

SECTION H: Type of Contract & Trade Details

In exchange for Contractor’s provision of the Software and Services under this SOW, City will provide Contractor Rounds as follows for each of its golf facilities listed:

City Park Golf Course, Evergreen Golf Course, Kennedy Golf Course, Harvard Gulch Par3 Golf Course, Overland Golf Course, Wellshire Golf Course, Willis Case Golf Course:

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PAYMENT METHOD	DESCRIPTION OF PAYMENT METHOD	CONTRACT TYPE	STATEMENT OF WORK OFFER VALID IF EXECUTED BY
Inventory Exchange	Eight (8) Rounds/day	Renewal	3/15/2018

City of Denver Golf and Denver Aqua Golf and Miniature Golf Course:

PAYMENT METHOD	DESCRIPTION OF PAYMENT METHOD	CONTRACT TYPE	STATEMENT OF WORK OFFER VALID IF EXECUTED BY
Inventory Exchange	Included with Inventory Exchange at City of Denver Golf Courses	Renewal	3/15/2018

Contractor will then resell these Rounds for their own profit. EZLinks agrees to not advertise inventory exchange rounds below 50% off the regular rate unless a lower online rate exists, in which case EZLinks will have the option of price parity. Any revenue generated from the Contractor selling the Rounds will be 100% retained by the Contractor. There are no additional upfront or recurring costs for products and services covered under this SOW. Any additional products or services not covered under this SOW would require additional compensation to be mutually agreed upon by both parties at such time.

The fee arrangement(s) selected by City at the onset of the Amendment shall remain in place for the duration of the Term, unless or until revised in a writing signed by City and Contractor.

- i. **Rounds:** A “Round” means one (1) scheduled round of 18 holes of golf (or 9 holes at 9-hole properties) for one (1) individual golfer and includes a cart, with no associated cart fee or greens fee.
- ii. **Allocation:** Contractor may, at its discretion, select and block designated Rounds from the ETN at the designated time(s) (see below). Contractor can book Rounds as far in advance as City course policy allows for regular golfers or match as far in advance as any third party is allowed to book Rounds for the City. Times selected will follow restrictions outlined in the SOW(s). Rounds cancelled for inclement weather will not result in a replacement Round.
- iii. **Availability:** City shall make the Rounds available on the ETN a number of days in advance of play consistent with City’s policy for regular golfers (or, if longer, as far in advance as any third party is allowed to book Rounds). If for any reason a Round is not available due to a scheduled outing, event, over seeding, course maintenance, or any other reason (except due to inclement weather), Contractor shall be permitted to designate a replacement Round on an earlier or subsequent date (provided such replacement Round is granted on a “like for like” basis, considering the day and time of the original Round), and following the same restrictions placed on Contractor’s allocation of Rounds as outlined in this Amended SOW.

- iv. **End User Service:** City will not deny service to Round End Users or apply any surcharge or other extra charge to any End User on the basis that the End User reserved a Round provided to Contractor.

- v. **Scheduling:** In the event of circumstances that require City to postpone scheduled play, Contractor agrees that it will provide objectively adequate value to the End User in a manner appropriate to the circumstances, including but not limited to a replacement Round on a subsequent date following the same restrictions placed on Contractor’s allocation of Rounds as outlined in this Amended SOW. City will not under any circumstances cancel, move or edit a Round reserved by an End User through the ETN, except for events of force majeure. The previous sentence notwithstanding, and subject to any objections of the End User, City may reasonably combine single golfers and pairings with other customers of City.

1/1 - 3/31: 9am + 12pm Monday through Thursday | 10:30am + 12:30 pm Friday through Sunday
 4/1 - 5/15: 8am + 12pm Monday through Thursday | 12pm + 1pm Friday through Sunday
 5/16 - 9/15: 7:30am + 1pm Monday through Thursday | 1pm + 2pm Friday through Sunday
 9/16 - 10/31: 8am + 12pm Monday through Thursday 12pm + 1pm Friday through Sunday
 11/1-12/31: 9am + 12pm Monday through Thursday | 10:30am + 12:30 pm Friday through Sunday

The above day/time ranges may be modified by mutual written agreement of the parties (e-mail will suffice).

Pricing List:

The following chart details the unit cash pricing that would apply if the parties agreed in a change order to change this SOW from a zero-dollar trade relationship to a cash payment relationship. Actual cash pricing per facility would be determined based upon product/feature usage per facility and indicated in a written amendment to this Agreement signed by both parties. The City would be required to give the Contractor at least ninety (90) days prior written notice of such a request.

Product Name	Product Code	Charge Type	Product Status	Qty	Unit Price if Paid in Cash	Contract Unit Price
17 Work Station Hardware Package	320B	One-Time	Required	1	\$54,270.00	\$0.00
3rd Party API Monthly Access Fee	14007B	Monthly	Required	8	\$50.00	\$0.00
Accounting System Interface	30805M	Monthly	Required	8	\$0.00	\$0.00
Barcode Blaster Printer Interface	30401M	Monthly	Required	8	\$0.00	\$0.00
Barcode Data Collector Interface	30807M	Monthly	Required	8	\$0.00	\$0.00
Built-in Analytics for Website Booking Module	12306B	Bundled	Required	7	\$0.00	\$0.00
DIME	20004B	Bundled	Required	8	\$0.00	\$0.00

Product Name	Product Code	Charge Type	Product Status	Qty	Unit Price if Paid in Cash	Contract Unit Price
Distribution Channel Management	10120B	Bundled	Active	7	\$0.00	\$0.00
Dynamic Pricing	10121B	Bundled	Required	7	\$0.00	\$0.00
EZ24 Pro	126B-IL	Per Round	Active	7	\$2.75	\$0.00
EZBook Pro	123B	Monthly	Active	7	\$250.00	\$0.00
EZCart	30610M	Monthly	Required	8	\$60.00	\$0.00
EZEngage Email Marketing	20003B	Bundled	Required	8	\$0.00	\$0.00
EZEngage Marketing Suite	201B	Monthly	Required	8	\$350.00	\$0.00
EZEngage Web	203WS	Bundled	Required	8	\$0.00	\$0.00
EZIntel	30605B	Monthly	Required	8	\$108.00	\$0.00
EZPremier Suite	308M	Monthly	Required	8	\$534.00	\$0.00
EZPrice Pro	10122B	Bundled	Active	7	\$0.00	\$0.00
EZT: Auto Turn Times	10117	Bundled	Active	7	\$0.00	\$0.00
EZT: Itinerary Manager	10106	Bundled	Required	7	\$0.00	\$0.00
EZT: Member Icons	10108	Bundled	Active	7	\$0.00	\$0.00
EZT: Multi Course/Cross Course Booking	10116	Bundled	Active	7	\$0.00	\$0.00
EZT: Photo ID Feature	10102	Bundled	Required	7	\$0.00	\$0.00
EZT: Rapid Reserve	10115	Bundled	Required	7	\$0.00	\$0.00
EZT: Revenue Reports	10109	Bundled	Required	7	\$0.00	\$0.00
EZTP: Extra User License (each)	10101	Monthly	Active	40	\$25.00	\$0.00
EZTP: User License	10101B	Bundled	Active	24	\$0.00	\$0.00
EZTee Pro	101B	Monthly	Active	7	\$425.00	\$0.00
EZTee Pro Tablet Package	326B	One-Time	Required	14	\$1,225.00	\$0.00
Event Management	30808M	Monthly	Required	8	\$0.00	\$0.00
Food & Beverage POS	30815M	Monthly	Required	8	\$0.00	\$0.00
Gallus Mobile App	206B	Monthly	Required	8	\$199.00	\$0.00
Gallus Mobile App Build	12401B	One-Time	Required	8	\$750.00	\$0.00
Golf Course Website Reservation Pre-Payment	12101B	Bundled	Required	7	\$0.00	\$0.00
INT: 3rd PARTY ROUNDS - Monthly Fee	14006	Monthly	Active	7	\$250.00	\$0.00
INT: EZSUITE PRO Integration	10701	One-Time	Required	7	\$500.00	\$0.00
INT: Range Software Interface	30816M	Monthly	Required	8	\$31.00	\$0.00
Initial Install- Per Day	301B	Per Day	Required	40	\$1,100.00	\$0.00
MKT: Custom Email Confirmation	10107	Bundled	Active	7	\$0.00	\$0.00
MKT: Database Marketing Assistant	10113	Bundled	Required	8	\$0.00	\$0.00

Product Name	Product Code	Charge Type	Product Status	Qty	Unit Price if Paid in Cash	Contract Unit Price
MKT: Marketing Tracker	10110	Bundled	Required	7	\$0.00	\$0.00
MKT: Promo Code Engine	10119	Bundled	Required	7	\$0.00	\$0.00
MKT: Reminder and Thank You Emails	10105	Bundled	Required	7	\$0.00	\$0.00
Management Dashboard	20005B	Monthly	Required	8	\$25.00	\$0.00
POS User License	30801B	Bundled	Required	32	\$0.00	\$0.00
POS: Add On User License	30801M	Monthly	Required	10	\$60.00	\$0.00
POS: Business Intelligence	30803M	Monthly	Required	8	\$0.00	\$0.00
POS: Central Environment	312M	Monthly	Required	8	\$0.00	\$0.00
POS: Gift Cards / Gift Certificate Function	30303	Bundled	Required	8	\$0.00	\$0.00
POS: Loyalty/Rewards	30819M	Monthly	Required	8	\$60.00	\$0.00
POS: Membership AR, EZ Pay with ACH, and Member	30802M	Monthly	Required	8	\$0.00	\$0.00
POS: Purchase Orders	30806M	Monthly	Required	8	\$0.00	\$0.00
Retail POS	30813M	Monthly	Required	8	\$0.00	\$0.00
SVC: 24/7/365 Support Line and ETN Updates	10114	Bundled	Active	1	\$0.00	\$0.00
SVC: 24/7/365 Support Line and POS Updates	316	Monthly	Required	1	\$0.00	\$0.00
Setup Fee: Marketing Products/Services	201B-SF	One-Time	Required	8	\$500.00	\$0.00
Social Booking Module	12304B	Bundled	Required	7	\$0.00	\$0.00
Specials Booking Module	12303B	Bundled	Active	7	\$0.00	\$0.00
TeeOff.com by PGA TOUR	141B	Per Round	Required	1	10.00%	10.00%
Utilization Pricing	10103B	Bundled	Required	7	\$0.00	\$0.00

Directory Rounds

City agrees to pay a 10% commission to Contractor, to be collected by Contractor from End Users at booking, for each City course round sold via [TeeOff.com](https://teeoff.com) by PGA TOUR and its various platforms and extensions (the "Consumer Platform"). Consumer will pay remaining balance to City at check-in for Consumer Platform rounds. Payment for directory rounds may be changed during term of agreement with mutual written consent between both parties.

SCHEDULE 1

Department of Finance Cash, Risk and Capital Funding Division Receipting Requirements for City Funds

[See Attached]

ADDENDUM 1

The terms and conditions of this Addendum 1 shall be incorporated in the Agreement and shall apply to the transmission of data associated with the processing of credit cards by customers of the City in environments controlled or managed in any way by Contractor.

1. **DEFINITIONS.** Whenever used herein, any schedules, exhibits, or addenda to this Agreement, the following terms shall have the meanings assigned below. Other capitalized terms used in this Agreement are defined in the context in which they are used.
 - 1.1 ***“Agreement”*** means this Cloud Computing Services Agreement between City and Contractor, inclusive of all schedules, exhibits, attachments, addenda and other documents incorporated by reference between the City and Contractor.
 - 1.2 ***“Brand Features”*** means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured by such party from time to time.
 - 1.3 ***“City Data”*** includes credentials issued to City by Contractor and all records relating to City’s use of Contractor Services and administration of End User accounts, including any Protected Information of City personnel that does not otherwise constitute Protected Information of an End User.
 - 1.4 ***“Confidential Information”*** means any Data that a disclosing party treats (1) in a confidential manner and that is (2) marked “Confidential Information” or is considered “Protected Information” prior to disclosure to the other party. Confidential Information does not include information which: (a) is public or becomes public through no breach of the confidentiality obligations herein; (b) is disclosed by the party that has received Confidential Information (the "Receiving Party") with the prior written approval of the other party; (c) was known by the Receiving Party at the time of disclosure; (d) was developed independently by the Receiving Party without use of the Confidential Information; (e) becomes known to the Receiving Party from a source other than the disclosing party through lawful means; (f) is disclosed by the disclosing party to others without confidentiality obligations; or (g) is required by law to be disclosed.
 - 1.5 ***“Data”*** means all information, whether in oral or written (including electronic) form, created by or in any way originating with City and End Users, and all information that is the output of any computer processing, or other electronic manipulation, of any information that was created by or in any way originating with City and End Users, in the course of using and configuring the Services provided under this Agreement, and includes City Data, End User Data, and Protected Information.

- 1.6 **"Data Compromise"** means any actual or reasonably suspected unauthorized access to or acquisition of computerized Data that compromises the security, confidentiality, or integrity of the Data, or the ability of City to access the Data.
- 1.7 **"Documentation"** means, collectively: (a) all materials published or otherwise made available to City by Contractor that relate to the functional, operational and/or performance capabilities of the Services; (b) all user, operator, system administration, technical, support and other manuals and all other materials published or otherwise made available by Contractor that describe the functional, operational and/or performance capabilities of the Services; (c) any Requests for Information and/or Requests for Proposals (or documents of similar effect) issued by City, and the responses thereto from Contractor, and any document which purports to update or revise any of the foregoing; and (d) the results of any Contractor "Use Cases Presentation", "Proof of Concept" or similar type presentations or tests provided by Contractor to City.
- 1.8 **"Downtime"** means any period of time of any duration that the Services are not made available by Contractor to City for any reason, including scheduled maintenance or Enhancements.
- 1.9 **"End User"** means the individuals (including, but not limited to employees, authorized agents, students and volunteers of City; Third Party consultants, auditors and other independent contractors performing services for City; any governmental, accrediting or regulatory bodies lawfully requesting or requiring access to any Services; customers of City provided services; and any external users collaborating with City) authorized by City to access and use the Services provided by Contractor under this Agreement.
- 1.10 **"End User Data"** includes End User account credentials and information, and all records sent, received, or created by or for End Users, including email content, headers, and attachments, and any Protected Information of any End User or third party contained therein or in any logs or other records of Contractor reflecting End User's use of Contractor Services.
- 1.11 **"Enhancements"** means any improvements, modifications, upgrades, updates, fixes, revisions and/or expansions to the Services that Contractor may develop or acquire and incorporate into its standard version of the Services or which the Contractor has elected to make generally available to its customers.
- 1.12 **"Intellectual Property Rights"** includes without limitation all right, title, and interest in and to all (a) Patent and all filed, pending, or potential applications for Patent, including any reissue, reexamination, division, continuation, or continuation-in-part applications throughout the world now or hereafter filed; (b) trade secret rights and equivalent rights arising under the common law, state law, and federal law; (c) copyrights, other literary property or authors rights, whether or not protected by copyright or as a mask work, under common law, state law,

and federal law; and (d) proprietary indicia, trademarks, trade names, symbols, logos, and/or brand names under common law, state law, and federal law.

- 1.13 “**Protected Information**” includes but is not limited to personally-identifiable information, student records, protected health information, criminal justice information or individual financial information (collectively, “Protected Information”) that is subject to local, state or federal statute, regulatory oversight or industry standard restricting the use and disclosure of such information and that the loss of such Protected Information would constitute a direct damage. These include, but are not limited to: the Colorado Constitution, the Colorado Consumer Protection Act, the Children’s Online Privacy Protection Act (COPPA), Health Insurance Portability and Accountability Act (HIPAA), the Family Education Rights and Privacy Act (FERPA), the Payment Card Industry Data Security Standard (PCI DSS), and the Federal Bureau of Information Criminal Justice Information Services (CJIS) Security Policy.
- 1.14 “**Project Manager**” means the individual who shall serve as each party’s point of contact with the other party’s personnel as provided in this Agreement. The initial Project Managers and their contact information are set forth in the Notices section below and may be changed by a party at any time upon written notice to the other party.
- 1.15 “**Service**” means Contractor’s computing solutions, provided to City pursuant to this Agreement, that provide the functionality and/or produce the results described in the Documentation, including without limitation all Enhancements thereto and all interfaces.
- 1.16 “**Third Party**” means persons, corporations and entities other than Contractor, City or any of their employees, contractors or agents.
- 1.17 “**Third Party Host**” means that the servers where the Contractor’s software resides is at physical location which is not controlled by the Contractor, sometimes called “managed hosting”, for example, Amazon Web Service.

2. DATA PRIVACY

- 2.1 Contractor will use City Data and End User Data only for the purpose of fulfilling its duties under this Agreement and for City’s and its End User’s sole benefit, and will not share such Data with or disclose it to any Third Party without the prior written consent of City or as otherwise required by law. By way of illustration and not of limitation, Contractor will not use such Data for Contractor’s own benefit and, in particular, will not engage in “data mining” of Data or communications, whether through automated or human means, except as specifically and expressly required by law or authorized in writing by City. Contractor may use data which is sanitized of any personally identifiable information, in aggregated form for business intelligence purposes.

- 2.2 Contractor will provide access to Data only to those Contractor employees, contractors and subcontractors (“Contractor Staff”) who need to access the Data to fulfill Contractor’s obligations under this Agreement. Contractor will ensure that, prior to being granted access to the Data, Contractor Staff who perform work under this Agreement have all undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all Data protection provisions of this Agreement; and possess all qualifications appropriate to the nature of the employees’ duties and the sensitivity of the Data they will be handling.

3. DATA SECURITY AND INTEGRITY

- 3.1 In the event that the Service is provided with a Third Party Host, Contractor shall not be relieved of the obligations in under this Agreement.
- 3.2 All facilities, whether Contractor hosted or Third Party Hosted, used to store and process Data will implement and maintain administrative, physical, technical, and procedural safeguards and best practices at a level sufficient to provide the requested Service availability and to secure Data from unauthorized access, destruction, use, modification, or disclosure. Such measures include, but not limited to, the Payment Card Industry Data Security Standard.
- 3.3 Contractor warrants that all City Data and End User Data will be encrypted in transmission (including via web interface) and in storage by a mutually agreed upon National Institute of Standards and Technology (NIST) approved strong encryption method and standard.
- 3.4 Contractor shall at all times use industry-standard and up-to-date security tools, technologies and procedures including, but not limited to anti-virus and anti-malware protections and intrusion detection and reporting in providing Services under this Agreement.
- 3.5 Prior to the Effective Date of this Agreement, Contractor or Third-Party Host, will at its expense conduct or have conducted the following, and thereafter, Contractor, or Third Party Host, will at their expense conduct or have conducted the following at least once per year, and immediately after any actual or reasonably suspected Data Compromise:
 - 4.4.1 A SSAE 16/SOC 2 or other mutually agreed upon audit of Contractor’s security policies, procedures and controls;
 - 4.4.2 A vulnerability scan, performed by a City-approved Third Party scanner, of Contractor’s systems and facilities that are used in any way to deliver Services under this Agreement;

- 4.4.3 A formal penetration test, performed by a process and qualified personnel approved by City, of Contractor's systems and facilities that are used in any way to deliver Services under this Agreement.
- 3.6 Contractor will provide City the reports or other documentation resulting from the above audits, certifications, scans and tests within seven (7) business days of Contractor's receipt of such results.
- 3.7 Based on the results and recommendations of the above audits, certifications, scans and tests, Contractor will, within thirty (30) calendar days of receipt of such results, promptly modify its security measures in order to meet its obligations under this Agreement, and provide City with written evidence of remediation.
- 3.8 City may require, at its expense, that Contractor perform additional audits and tests, the results of which will be provided to City within seven (7) business days of Contractor's receipt of such results.
- 3.9 Contractor shall protect Data against deterioration or degradation of Data quality and authenticity. Contractor will provide City the results of the above audits.

4. RESPONSE TO LEGAL ORDERS, DEMANDS OR REQUESTS FOR DATA

- 4.1 Except as otherwise expressly prohibited by law, Contractor will:
 - 5.1.1 If required by a court of competent jurisdiction or an administrative body to disclose Data, Contractor will notify City in writing immediately upon receiving notice of such requirement and prior to any such disclosure;
 - 5.1.2 Consult with City regarding its response;
 - 5.1.3 Cooperate with City's reasonable requests in connection with efforts by City to intervene and quash or modify the legal order, demand or request; and
 - 5.1.4 Upon City's request, provide City with a copy of its response.
- 4.2 If City receives a subpoena, warrant, or other legal order, demand or request seeking Data maintained by Contractor, City will promptly provide a copy to Contractor. Contractor will supply City with copies of Data required for City to respond within forty-eight (48) hours after receipt of copy from City, and will cooperate with City's reasonable requests in connection with its response.

5. DATA COMPROMISE RESPONSE

- 5.1 Contractor shall report, either orally or in writing, to City any Data Compromise involving Data, or circumstances that could have resulted in unauthorized access to or disclosure or use of Data, not authorized by this Agreement or in writing by City, including any reasonable belief that an unauthorized individual has accessed

Data. Contractor shall make the report to City immediately upon discovery of the unauthorized disclosure, but in no event more than forty-eight (48) business hours after Contractor reasonably believes there has been such unauthorized use or disclosure. Oral reports by Contractor regarding Data Compromises will be reduced to writing and supplied to City as soon as reasonably practicable, but in no event more than forty-eight (48) hours after oral report.

- 5.2 Immediately upon becoming aware of any such Data Compromise, Contractor shall fully investigate the circumstances, extent and causes of the Data Compromise, and report the results to City and continue to keep City informed on a daily basis of the progress of its investigation until the issue has been effectively resolved.
- 5.3 Contractor's report discussed herein shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure (if known), (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
- 5.4 Within five (5) calendar days of the date Contractor becomes aware of any such Data Compromise, Contractor shall have completed implementation of corrective actions to remedy the Data Compromise, restore City access to the Services as directed by City, and prevent further similar unauthorized use or disclosure. In the event that the corrective action is not complete within five calendar days, then the Contractor shall take all reasonable steps to finalize the corrective action within five additional calendar days.
- 5.5 Contractor, at its expense, shall cooperate fully with City's investigation of and response to any such Data Compromise incident.
- 5.6 Except as otherwise required by law, Contractor will not disclose or otherwise provide notice of the incident directly to any person, regulatory agencies, or other entities, without prior written permission from City.
- 5.7 Notwithstanding any other provision of this Agreement, and in addition to any other remedies available to City under law or equity, Contractor will promptly reimburse City in full for all costs incurred by City in any investigation, remediation or litigation resulting from any such Data Compromise, including but not limited to providing notification to Third Parties whose Data were compromised and to regulatory bodies, law-enforcement agencies or other entities as required by law or contract; establishing and monitoring call center(s), and credit monitoring and/or identity restoration services to assist each person impacted by a Data Compromise in such a fashion that, in City's sole discretion, could lead to identity theft; and the payment of legal fees and expenses, audit costs, fines and penalties, and other fees imposed by regulatory agencies, courts of law, or contracting partners as a result of the Data Compromise.

- 5.8 The preceding requirements of this Section 6 are applicable to the Contractor and the Service to the extent the Contractor maintains control over the Service and the software and the requirements are not in violation of the agreement between the Contractor and the Third Party Host.

6. DATA RETENTION AND DISPOSAL

- 6.1 Contractor will retain Data in an End User's account, including attachments, until the End User deletes them or for the time period mutually agreed to by the parties in this Agreement.
- 6.2 Using appropriate and reliable storage media, Contractor will regularly backup Data and retain such backup copies consistent with the City's data retention policies.
- 6.3 At the City's election, Contractor will either securely destroy or transmit to City repository any backup copies of City and/or End User Data. Contractor will supply City a certificate indicating the records disposed of, the date disposed of, and the method of disposition used.
- 6.4 Contractor will retain logs associated with End User activity consistent with the City's data retention policies.
- 6.5 Contractor will immediately preserve the state of the Data at the time of the request and place a "hold" on Data destruction or disposal under its usual records retention policies of records that include Data, in response to an oral or written request from City indicating that those records may be relevant to litigation that City reasonably anticipates. Oral requests by City for a hold on record destruction will be reduced to writing and supplied to Contractor for its records as soon as reasonably practicable under the circumstances. City will promptly coordinate with Contractor regarding the preservation and disposition of these records. Contractor shall continue to preserve the records until further notice by City.

7. DATA TRANSFER UPON TERMINATION OR EXPIRATION

- 7.1 Upon termination or expiration of this Agreement, Contractor will ensure that all Data are securely transferred to City, or a Third Party designated by City, within thirty (30) calendar days. Contractor will ensure that such migration uses facilities and methods that are compatible with the relevant systems of City, and that City will have access to Data during the transition. In the event that it is not possible to transfer the aforementioned data to City in a format that does not require proprietary software to access the data, Contractor shall provide City with an unlimited use, perpetual license to any proprietary software necessary in order to gain access to the Data.
- 7.2 Contractor will provide City with no less than ninety (90) calendar days' notice of impending cessation of its business or that of any Contractor subcontractor and

any contingency plans in the event of notice of such cessation. This includes immediate transfer of any previously escrowed assets and Data and providing City access to Contractor's facilities to remove and destroy City-owned assets and Data.

- 7.3 Along with the notice described above, Contractor will provide a fully documented service description and perform and document a gap analysis by examining any differences between its Services and those to be provided by its successor.
- 7.4 Contractor will provide a full inventory and configuration of servers, routers, other hardware, and software involved in service delivery along with supporting documentation, indicating which if any of these are owned by or dedicated to City.
- 7.5 Contractor shall implement its contingency and/or exit plans and take all necessary actions to provide for an effective and efficient transition of service with minimal disruption to City. Contractor will work closely with its successor to ensure a successful transition to the new service and/or equipment, with minimal Downtime and effect on City, all such work to be coordinated and performed no less than ninety (90) calendar days in advance of the formal, final transition date.

8. **PROTECTED INFORMATION.** During the course of this Agreement, should Contractor come into possession of any Protected Information, Contractor may not disclose this information to any Third Party under any circumstances, unless required by the Agreement and shall take all commercially necessary steps to protect the information from release.

9. **COMPLIANCE FOR IN-SCOPE SERVICES.** The Contractor covenants and agrees to comply with the processing, handling, and security standards and guidelines as set forth by, but not limited to:

- a) Health Insurance Portability and Accountability Act (HIPAA)
- b) Family Education Rights and Privacy Act (FERPA)
- c) Children's Online Privacy and Protection Act (COPPA)
- d) Federal Bureau of Investigation Criminal Justice Information Systems (CJIS) Security Policy

and further covenants and agrees to maintain compliance with the same when appropriate for the Data and Services provided under the Agreement. Contractor further agrees to exercise reasonable due diligence to ensure that all of its service providers, agents, business partners, contractors, subcontractors and any person or entity that may have access to Data under this Agreement maintain compliance

with and comply in full with the terms and conditions set out in this Section. Notwithstanding Force Majeure, the respective processing, handling, and security standards and guidelines referenced by this section may be revised or changed from time to time or Data may be utilized within the Services that change the compliance requirements. In the event that compliance requirements change, the Contractor and City shall collaborate in good faith and use all reasonable efforts to become or remain compliant as necessary under this section. In the event that compliance is required or statutory and no reasonable efforts are available, the City at its discretion may terminate the agreement for cause.

10. **ON-LINE AGREEMENT DISCLAIMER**. Any ‘click-wrap’ agreement, terms of use, electronic acceptance or other terms and conditions which attempt to govern the subject matter of this Agreement that either party might be required to acknowledge or accept before or after entering into this Agreement are of no force and effect as between the City and Contractor and are superseded by this Agreement.

11. **PCI/DSS COMPLIANCE:**

A. The Contractor covenants and agrees to comply with Visa’s Cardholder Information Security Program/CISP, MasterCard’s Security Data Program and SDP Rules, and with all other credit card association or National Automated Clearing House Association (NACHA) rules or rules of member organizations (generally “Association”), and further covenants and agrees to maintain compliance with the Payment Card Industry Data Security Standards (PCI DSS), MasterCard Site Data Protection (SDP), and (where applicable) the VISA Payment Application Best Practices (PABP) (collectively, the “Security Guidelines”). Contractor represents and warrants that all of the hardware and software components that it utilizes for the City or uses under this Agreement is and will be PCI DSS compliant. All service providers that Contractor uses under the Agreement must be recognized by VISA as compliant with PABP. Contractor further agrees to exercise reasonable due diligence to ensure that all of its service providers, agents, business partners, contractors, subcontractors and any person or entity that may have access to credit card information under this Agreement maintain compliance with the Security Guidelines and comply in full with the terms and conditions set out in this Section. Contractor further certifies that the equipment, as described herein, will be deployed in a manner that meets or exceeds the PADSS and/or PCI certification and will be deployed on a network that meets or exceeds PCI standards.

B. The Contractor shall not retain or store CVV2/CVC2 data subsequent to authorization of a credit card transaction, shall prohibit disclosure of any and all cardholder information, and in the event of a compromise of credit card information of any kind, Contractor shall immediately notify the City in writing, and shall provide, at Contractor’s sole expense, all necessary and appropriate notification to parties and persons affected by such disclosure and compromise.

C. Contractor must provide verification to the City, prior to start up and ongoing annually during the term of this Agreement, that all modules of the Contractor’s system(s) that interface with or utilize credit card information in any manner or form of

collection are Payment Card Industry Data Security Standards (PCI DSS) compliant.

D. The Contractor must provide quarterly results of a network scan for all Internet or IVR payment acceptance modules that verify PCI DSS compliance, or in the City's sole discretion, allow the City's contracted PCI DSS compliance auditor full access to the Contractor's system(s) at any time to provide this verification to the City. Any cost associated with the City's contracted PCI DSS compliance auditor will be paid by the City. If any Association requires an audit of the Contractor or any of Contractor's Service Providers, agents, business partners, contractors or subcontractors due to a data security compromise event related to this Agreement, Contractor agrees to cooperate with such audit. If as a result of an audit of the City it is determined that any loss of information is attributable to the Contractor, the Contractor shall pay the City's reasonable costs relating to such audit, including attorney's fees. No review, approval, or audit by the City shall relieve the Contractor from liability under this section or under other provisions of this Agreement.

E. In addition to all other defense and indemnity obligations undertaken by the Contractor under this Agreement, the Contractor, to the extent that its performance of this Agreement includes the allowance or utilization by members of the public of credit cards to pay monetary obligations to the City or the Contractor, or includes the utilization, processing, transmittal and/or storage of credit card data by the Contractor, shall defend, release, indemnify and save and hold harmless the City against any and all fines, penalties, assessments, costs, damages or other financial obligations, however denominated, assessed against the City and/or the Contractor by credit card company(s), financial institution(s) or by the National Automated Clearing House Association (NACHA) or successor or related entity, including but not limited to, any credit card company fines, regardless of whether considered to be consequential, special, incidental or punitive damages, costs of notifying parties and persons affected by credit card information disclosure, the cost of replacing active credit cards, and any losses associated with fraudulent transaction(s) occurring after a security breach or loss of information with respect to credit card information, and shall defend, release, indemnify, and save and hold harmless the City from any and all claims, demands, suits, actions, liabilities, causes of action or legal or equitable proceedings of any kind or nature, of or by anyone whomsoever, in any way affected by such credit card data or utilizing a credit card in the performance by Contractor of this Agreement. In furtherance of this, Contractor covenants to defend and indemnify the City and the Contractor shall maintain compliance with the Payment Card Industry Data Security Standard (PCI DSS) and with all other requirements and obligations related to credit card data or utilization set out in this Agreement.

ADDENDUM 2

City and County of Denver – Department of Finance
Cash, Risk and Capital Funding Division
Receipting Requirements for City Funds

Reference:

*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*

Fiscal Accountability Rule 3.3 – Change Fund and associated procedures and forms

Fiscal Accountability Rule 3.4 – Receipt and Deposit and associated procedures and forms

Payment, Receipt, Cash Handling or Banking of City Funds – 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, Risk and Capital Funding Division. The City’s Manager of Finance has final authority to establish what forms of payment the City accepts and what mechanisms are used to process the payments.

Deposit of Funds – Funds gross of any fees are the property of the City and shall settle directly to a City-owned bank account approved by the Cash Management Section.

Funds shall be deposited daily by either electronic or physical delivery into a City-owned bank account approved by the Cash Management Section. Any third-party service handling City funds for transport to the bank shall be bonded. The City’s preferred method for physical bank delivery is armored car.

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

The assessment of credit card convenience fees to customers is not part of the City’s current receipting business model. Any proposal to assess fees beyond the cost of City services shall be submitted to the Cash Management Section for review and submission to the Manager of Finance for approval.

Systems, structures and procedures implemented shall prove compliant with Payment Card Industry Data Security Standards (PCI DSS), be reviewed and approved by the Cash Management Section and the City’s Data Security Team, and/or identified as out of scope by the Data Security Team prior to selection or implementation.

City and County of Denver – Department of Finance
Cash, Risk and Capital Funding Division
Receipting Requirements for City Funds

Electronic Funds Transfers – Systems, structures and procedures implemented shall comply with the National Automated Clearing House Association (NACHA) and other applicable rules and regulations regarding electronic funds transfers. ACH and/or Wire payment mechanisms shall be reviewed and approved by the Cash Management Section prior to implementation.

Payment and Banking Mechanisms – Any 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 submitted to the Cash Management Section for review and submission to the Manager of Finance for approval.

The Cash Management Section shall determine if payment, receipt, cash handling or banking products or services i.e., lockbox shall be implemented based on volume of payments to ensure secured cash handling, timely deposit of funds and efficient updating of customer accounts. The Manager of Finance has final approval of all payment, receipting, cash handling or banking structures and processes.

Third-Party Services – 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 Manager of Finance has final approval of all payment, receipting, cash handling or banking structures and processes.