

THIRD AMENDATORY SPECIAL COUNSEL AGREEMENT

This **THIRD AMENDATORY SPECIAL COUNSEL AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **KELLER ROHRBACK L.L.P.**, a Washington Limited Liability Partnership whose address is 1201 Third Avenue, Ste. 3400, Seattle, Washington 98101 (“Special Counsel”), collectively “the Parties”.

WHEREAS, The Parties entered into an Agreement executed on September 5, 2018, an Amendatory Agreement executed on March 13, 2020, and a Second Amendatory Agreement executed on November 30, 2022 (the “Agreement”) to perform, and complete all the services and produce all the deliverables set forth in the Agreement, to the City’s satisfaction.

WHEREAS, The Parties wish to amend the Agreement as set forth below.

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

1. Section 3 of the Agreement entitled “**TERM**” is hereby deleted in its entirety and replaced with:

“**3. TERM:** The Agreement will commence August 15, 2018, and will expire on the conclusion of all assigned litigation or on December 31, 2026, whichever occurs later (the “Term”). Subject to the City Attorney’s prior written authorization, Special Counsel shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the City Attorney.”

2. Section 9 of the Agreement entitled “**EXAMINATION OF RECORDS**” is hereby deleted in its entirety and replaced with:

“**9. EXAMINATION OF RECORDS AND AUDITS:**

Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City’s election in paper or electronic form, any pertinent books, documents, papers and records related to Special Counsel’s performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Special Counsel shall cooperate with City representatives and City representatives shall be granted access to the foregoing

documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Special Counsel to make disclosures in violation of state or federal privacy laws. Special Counsel shall at all times comply with D.R.M.C. 20-276.”

3. Section 12 of the Agreement entitled “**DEFENSE AND INDEMNIFICATION**” is hereby deleted in its entirety and replaced with the following:

“**12.a** To the fullest extent permitted by law, the Special Counsel agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or related to the work performed under this Agreement that are attributable to the negligence or fault of the Special Counsel or Special Counsel’s agents, representatives, subcontractors, or suppliers (“Claims”). This indemnity shall be interpreted in the broadest possible manner consistent with the applicable law to indemnify the City.

b. Special Counsel’s obligation to defend and indemnify may be determined after Special Counsel’s liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the parties. Special Counsel’s duty to defend and indemnify City shall relate back to the time written notice of the Claim is first provided to City regardless of whether suit has been filed and even if Special Counsel is not named as a Defendant.

c. Special Counsel will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to

enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

d. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Special Counsel under the terms of this indemnification obligation. The Special Counsel shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

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

Section 22 of the Agreement entitled "NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT" is hereby deleted and replaced with the following:

"22. RESCINDED."

4. Section 25 of the Agreement entitled "NO DISCRIMINATION IN EMPLOYMENT" is hereby deleted in its entirety and replaced with:

"25. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under the Agreement, Special Counsel may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. Special Counsel shall insert the foregoing provision in all subcontracts."

5. The following is added as section 37:

"37. 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.”

7. As herein amended, the Agreement is affirmed and ratified in each and every particular.

8. This Third Amendatory Agreement will not be 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.

[SIGNATURE PAGES TO FOLLOW]

Contract Control Number: ATTNY-201843723-03, ATTNY-202476139-03
Contractor Name: KELLER ROHRBACK 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-201843723-03, ATTNY-202476139-03
KELLER ROHRBACK LLP

By: Signed by:
Gretchen Freeman Cappio
3A9C6A0C63414D2...

Name: Gretchen Freeman Cappio
(please print)

Title: Partner
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)