

FIRST AMENDMENT TO AGREEMENT

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into on the date of the City's signature page by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("City"), and **INTERNATIONAL BUSINESS MACHINES CORPORATION**, a corporation organized under the laws of the state of New York and authorized to do business in the State of Colorado ("Consultant" or "IBM") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Parties entered into an Agreement (Contract No. 201628452-00) at Denver International Airport ("DEN") dated January 9, 2017, (the "Existing Agreement") to provide software and professional services for the IBM Maximo and Tririga Implementation Phases 2-5 and Hosting Services contract and to provide a hosting environment to run the Maximo application, as well as the required software licensing and software maintenance at DEN. IBM Maximo is DEN's Asset Management System and is used to track assets, schedule maintenance, maintain inventory for replacement parts, issue work orders, and produce reports for the critical infrastructure at DEN;

WHEREAS, the City is using a new contract management software system, and as a result, the contract number for this Agreement is being changed from 201628452-01 to 202158113-01;

WHEREAS, the parties desire to amend the Existing Agreement in order to extend the Term, increase the Maximum Contract Amount, revise the paragraphs references below, and add an additional Exhibit ("Exhibit A-4") to the Exhibits already incorporated into the Existing Agreement;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the sufficiency of which is acknowledged, the parties hereto agree as follows:

1. Paragraph 2, "Statement of Work", subparagraph A, is hereby deleted and replaced with the restated Paragraph 2, subparagraph A, set forth below for the purpose of adding reference to "Exhibit A-4 IBM Quotation Number 19008253 for IBM Maximo and TRIRIGA Software as a Service":

"2. STATEMENT OF WORK:

A. The Consultant, under the general direction of, and in coordination with the CEO, or other designated supervisory personnel as set forth herein, shall exert commercially reasonable efforts to perform any and all authorized services provided under this Agreement. The Consultant shall provide the Services described in the following Exhibits to this Agreement:

Exhibit A-1, "IBM Global Services Statement of Work for Maximo and TRIRIGA Enhancements Phases 2-5 Implementation Services",

Exhibit A-2, “IBM Statement of Work WITUS160815246633 for IBM Maximo Software Hosting Services”,

Exhibit A-3, “IBM Statement of Work MWOD-9UKJHU for IBM TRIRIGA Software Hosting Services”, and

Exhibit A-4 “IBM Quotation Number 19008253 for IBM Maximo and TRIRIGA Software as a Service.”.

2. Paragraph 3, “Term” is hereby deleted and restated to read as follows:

“3. Term: The Term of this Agreement shall commence on the Effective Date and shall terminate on February 28, 2024, unless sooner terminated under the provisions of this Agreement. The term of this Agreement may be extended by the mutual agreement of the parties, confirmed by written notice from the City to the Consultant, to allow the completion of any work which has been commenced prior to the date upon which this Agreement otherwise would terminate. However, no extension of the Term shall increase the Maximum Contract Liability stated herein; such amount may be changed only by a duly executed written amendment to this Agreement.

The period of performance for the IBM Software as a Service as defined in Exhibit A-4: IBM Quotation Maximo and TRIRIGA Software as a Service shall commence on July 1, 2021 and continue thereafter for thirty-two (32) months through February 28, 2024”.

3. Paragraph 4, “Compensation and Payment”, subparagraph A, “Fees”, is hereby deleted and replaced with the restated Paragraph 4, subparagraph A, set for the below for the purpose of adding reference to “Exhibit A-4 IBM Quotation Number 19008253 for IBM Maximo and TRIRIGA Software as a Service”:

A. “Fee: The City agrees to pay to the Consultant, and the Consultant agrees to accept as its sole compensation for services rendered and costs incurred under this Agreement, the rates set forth in Exhibit A-1, Section 2. 8 “Charges”, Exhibit A-2, Section 8 “Charges”, Exhibit A-3, Section 8 “Charges”, Exhibit A-4 IBM Quotation, and as may be further described herein.”.

4. Paragraph 4, “Compensation and Payment, subparagraph D.(i), “Maximum Contract Liability”, is hereby amended and restated to read as follows:

“D. Maximum Contract Liability:

(i) Any other provision of this Agreement notwithstanding, in no event shall City be liable to pay for services rendered and expenses incurred by Consultant under the terms of this Agreement for any amount in excess of Six Million Four Hundred Twenty Thousand Dollars and Zero Cents (\$6,420,000.00) (“Maximum Contract Liability”), allocated as follows:

a. That portion of the Maximum Contract Liability allocated to the Maximo and TRIRIGA Phases 2-5 Implementation, as more fully described in Exhibit A-1, as well as any “Additional Services” as

described at paragraph 2B, above, shall not exceed Three Million Two Hundred Twenty-Five Thousand Eight Hundred and Thirty-Five (\$3,225,835.00) dollars hereinafter referred to as the “Implementation Maximum Contract Liability”.

b. That portion of the Maximum Contract Liability allocated to IBM Maximo and TRIRIGA Software Hosting Services, as more fully described in Exhibit A-2 and Exhibit A-3, shall not exceed One Million Nine Hundred Eighty-Four Thousand Six Hundred Sixty-Five Dollars and 00 Cents (\$1,984,665.00), hereinafter referred to as the “Hosting Maximum Contract Liability”.

c. That portion of the Maximum Contract Liability allocated to IBM Software as a Service as more fully described in Exhibit A-4 shall not exceed One Million Four Hundred and Ten Thousand (\$1,410,000.00) dollars, hereinafter referred to as the “SaaS Maximo Contract Liability”.

5. Paragraph 43 of the Existing Agreement is hereby deleted and replaced with the following restated Paragraph 43:

“43. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:

This Agreement consists of Sections 1 through 57 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference (the “Contract Documents”):

Appendix 1: Federal Aviation Administration Required Contract Provisions

- Exhibit A-1: IBM Statement of Work – Implementation
- Exhibit A-2: IBM Statement of Work – Maximo Hosting
- Exhibit A-3: IBM Statement of Work – TRIRIGA Hosting
- Exhibit A-4: IBM Quotation Maximo and TRIRIGA Software as a Service
- Exhibit B: Hosting Services Addendum
- Exhibit C: Certificate of Insurance
- Exhibit D: Agreement for Exchange of Confidential Information (AECI)

In the event of an irreconcilable conflict between a provision of Sections 1 through 57 and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

Appendix 1

Exhibits A-1, A-4, A-2, and A-3

Sections 1 through 57 hereof

Exhibit B

Exhibit C

Exhibit D”

6. Paragraph 7 of Exhibit A-2: IBM Statement of Work – Maximo Hosting is hereby deleted and replaced with the following restated Paragraph 7:

“7. Term

The term of the Services to be provided (“Term”) will begin between a start date to be determined by both parties and currently estimated to be 12/01/2016 (the “Effective Date”) and an end date of 06/30/2021.”

7. Paragraph 8 of Exhibit A-2: IBM Statement of Work – Maximo Hosting is hereby deleted and replaced with the following restated Paragraph 8:

“8. Charges

The charge for the Services described in this SOW, exclusive of applicable taxes, is \$1,257,586.88. All charges described in the following tables for work scheduled to be performed after the completion of the Term shall be deleted.”

8. Paragraph 7 of Exhibit A-3: IBM Statement of Work – TRIRIGA Hosting is hereby deleted and replaced with the following restated Paragraph 7:

“7. Term

The term of the Services to be provided (“Term”) will begin between a start date to be determined by both parties and currently estimated to be 12/01/2016 (the “Effective Date”) and an end date of 06/30/2021.”

9. Paragraph 8 of Exhibit A-3: IBM Statement of Work – TRIRIGA Hosting is hereby deleted and replaced with the following restated Paragraph 8:

“8. Charges

The charge for the Services described in this SOW, exclusive of applicable taxes, is \$517,913.50. All charges described in the following tables for work scheduled to be performed after the completion of the Term shall be deleted.”

10. Except as otherwise provided herein, all of the terms, provisions, conditions, and Exhibits of the Existing Agreement shall remain in full force and effect as though set out in full here and are hereby ratified and reaffirmed.

11. This First Amendment to Agreement shall not become effective or binding on the City until it is approved by the City Council if so, required by the City's Charter, and it is fully executed by all signatories of the City and County of Denver.

[SIGNATURE PAGES TO FOLLOW]

Contract Control Number:
Contractor Name:
CORPORATION

PLANE-202158113-01 / Alfresco 201628452-01
INTERNATIONAL BUSINESS MACHINES

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:
CORPORATION

PLANE-202158113-01 / Alfresco 201628452-01
INTERNATIONAL BUSINESS MACHINES

DocuSigned by:
Austin Hawk
By: _____
CGE2D228G9034EG...

Name: Austin Hawk
(please print)

Title: IBM Software Client Leader
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

International Business Machines Corporation
International Business Machines Corporation, PO Box 643600, Pittsburgh, PA
15264-3600



IBM Quotation

Attn: Juan Lucero
Denver International Airport
8500 Pena Boulevard
DENVER CO 80249-6340
UNITED STATES

IBM Site Number: 3220748
IBM Agreement Number: 206536
IBM Customer Number: 2446877

Dear Juan Lucero

Thank you for being an IBM Client. We are delighted to provide this quote for IBM offerings.

Worldwide, companies like yours are increasingly demanding more from their information technology infrastructure, increased flexibility, scalability and agility to meet changing business needs. At the same time, they want reduced cost, rapid deployment and investment recovery.

Over the years, our products, services and solutions capabilities have given our Clients the reliability, availability, security, and manageability to improve operations and achieve efficiency while accommodating growth at reduced cost. These characteristics have been and will remain fundamental to the IBM portfolio.

This quotation is valid from 26-May-2021 and will expire on 30-Jun-2021.
We look forward to your order.

If you need assistance with placing your order or wish to discuss your quotation, please contact the IBM Representative noted below.

Yours sincerely,

Thomas L Mahon
Phone Number: 1-301-346-8643
Fax Number:
E-mail Address: tom.mahon@us.ibm.com

International Business Machines Corporation
International Business Machines Corporation, PO Box 643600, Pittsburgh, PA
15264-3600



IBM Quotation

Quotation Information

Number: **19008253**
Effective Date: **26-May-2021**
Expiration Date: **30-Jun-2021**

Customer Information

Attn: **Juan Lucero**
Denver International Airport
8500 Pena Boulevard
DENVER CO 80249-6340
UNITED STATES

Sales Representative

IBM Contact: **Thomas L Mahon**
Phone Number: **1-301-346-8643**
E-mail Address: tom.mahon@us.ibm.com

IBM Site Number: **3220748**
IBM Customer Number: **2446877**
IBM Agreement Number: **206536**

Summary

Software, Appliance, and Subscription and Support Total	0.00
Software as a Service Total	1,319,171.47
Total	1,319,171.47 USD

Software as a Service

Subscription Entitlements

IBM Maximo EAM SaaS Flex

IBM Maximo EAM SaaS Flex Concurrent User Subscription per Month

Subscription Part#: **D1UJ0LL** Committed Term: **32 Months**
Overage Part#: **D1UJ1LL** Committed Term Price Change: **Increase 3.000 % every 12 Months**
Billing: **Annual** Renewal Type: **Terminate at end of current term**
Unit Price: **Tiered**

Item	Quantity	Month	Subscription Rate	Item Price	Overage Rate
1	80	1-12	282,672.00	282,672.00	465.00
2	80	13-24	291,152.16	291,152.16	478.95
3	80	25-32	299,886.72	199,924.48	493.32
Subtotal				773,748.64 USD	

IBM Maximo EAM Scheduler SaaS Flex Authorized User Subscription per Month

Subscription Part#: **D1UJ2LL** Committed Term: **32 Months**
Overage Part#: **D1UJ3LL** Committed Term Price Change: **Increase 3.000 % every 12 Months**
Billing: **Annual** Renewal Type: **Terminate at end of current term**
Unit Price: **Tiered**

Item	Quantity	Month	Subscription Rate	Item Price	Overage Rate
4	10	1-12	3,955.20	3,955.20	49.40
5	10	13-24	4,073.86	4,073.86	50.88

EXHIBIT A-4

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6	10	25-32	4,196.07	2,797.38	52.41
Subtotal				10,826.44 USD	

IBM Maximo EAM Transportation Add-on SaaS Flex Concurrent User Subscription per Month

Subscription Part#: D1UJRL	Committed Term: 32 Months
Overage Part#: D1UJSL	Committed Term Price Change: Increase 3.000 % every 12 Months
Billing: Annual	Renewal Type: Terminate at end of current term
Unit Price: Tiered	

Item	Quantity	Month	Subscription Rate	Item Price	Overage Rate
7	40	1-12	28,274.40	28,274.40	111.00
8	40	13-24	29,122.63	29,122.63	114.33
9	40	25-32	29,996.31	19,997.54	117.76
Subtotal				77,394.57 USD	

IBM Maximo EAM Additional Non Production SaaS Flex Instance Per Month

Subscription Part#: D1WV2LL	Committed Term: 32 Months
Billing: Annual	Committed Term Price Change: Increase 3.000 % every 12 Months
Unit Price: 40,800.00	Renewal Type: Terminate at end of current term

Item	Quantity	Month	Subscription Rate	Item Price
10	1	1-12	40,800.00	40,800.00
11	1	13-24	42,024.00	42,024.00
12	1	25-32	43,284.72	28,856.48
Subtotal				111,680.48 USD

IBM Facilities and Real Estate Mgmt on Cloud
IBM Facilities and Real Estate Management on Cloud (TRIRIGA) Service Level Agreement

Subscription Part#: D1C49LL	Committed Term: 32 Months
Billing: Upfront	Committed Term Price Change: Increase 3.000 % every 12 Months
Unit Price: Tiered	Renewal Type: Terminate at end of current term

Item	Quantity	Month	Subscription Rate	Item Price
13	1	1-32	0.00	0.00
Subtotal				0.00 USD

EXHIBIT A-4

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IBM Facilities and Real Estate Management (TRIRIGA) On Cloud Self Service User 5
Authorized User Subscription per Month

Subscription Part#: **D1UMDLL**
 Overage Part#: **D1UMELL**
 Billing: **Annual**
 Unit Price: **Tiered**

Committed Term: **32 Months**
 Committed Term Price Change: **Increase 3.000 % every 12 Months**
 Renewal Type: **Terminate at end of current term**

Item	Quantity	Month	Subscription Rate	Item Price	Overage Rate
14	25	1-12	252.60	252.60	0.76
15	25	13-24	260.18	260.18	0.78
16	25	25-32	267.98	178.65	0.81
Subtotal				691.43 USD	

IBM Facilities and Real Estate Management (TRIRIGA) On Cloud Approvals and Reporting user
Authorized User Subscription per Month

Subscription Part#: **D1UMFLL**
 Overage Part#: **D1UMGLL**
 Billing: **Annual**
 Unit Price: **Tiered**

Committed Term: **32 Months**
 Committed Term Price Change: **Increase 3.000 % every 12 Months**
 Renewal Type: **Terminate at end of current term**

Item	Quantity	Month	Subscription Rate	Item Price	Overage Rate
17	10	1-12	2,964.00	2,964.00	29.60
18	10	13-24	3,052.92	3,052.92	30.49
19	10	25-32	3,144.51	2,096.34	31.40
Subtotal				8,113.26 USD	

IBM Facilities and Real Estate Management (TRIRIGA) On Cloud Enterprise User Authorized
User Subscription per Month

Subscription Part#: **D1UMHLL**
 Overage Part#: **D1UMILL**
 Billing: **Annual**
 Unit Price: **Tiered**

Committed Term: **32 Months**
 Committed Term Price Change: **Increase 3.000 % every 12 Months**
 Renewal Type: **Terminate at end of current term**

Item	Quantity	Month	Subscription Rate	Item Price	Overage Rate
20	20	1-12	61,440.00	61,440.00	308.00
21	20	13-24	63,283.20	63,283.20	317.24
22	20	25-32	65,181.70	43,454.46	326.76
Subtotal				168,177.66 USD	

EXHIBIT A-4

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IBM Facilities and Real Estate Management (TRIRIGA) On Cloud Occasional Enterprise User Authorized User Subscription per Month

Subscription Part#: **D1UMNLL**
 Overage Part#: **D1UMPLL**
 Billing: **Annual**
 Unit Price: **Tiered**

Committed Term: **32 Months**
 Committed Term Price Change: **Increase 3.000 % every 12 Months**
 Renewal Type: **Terminate at end of current term**

Item	Quantity	Month	Subscription Rate	Item Price	Overage Rate
23	20	1-12	26,880.00	26,880.00	135.00
24	20	13-24	27,686.40	27,686.40	139.05
25	20	25-32	28,516.99	19,011.33	143.22
Subtotal				73,577.73 USD	

IBM Facilities and Real Estate Management on Cloud (TRIRIGA) Additional Non Production, Instance Per Month

Subscription Part#: **D1WVELL**
 Billing: **Annual**
 Unit Price: **34,680.00**

Committed Term: **32 Months**
 Committed Term Price Change: **Increase 3.000 % every 12 Months**
 Renewal Type: **Terminate at end of current term**

Item	Quantity	Month	Subscription Rate	Item Price
26	1	1-12	34,680.00	34,680.00
27	1	13-24	35,720.40	35,720.40
28	1	25-32	36,792.01	24,528.01
Subtotal				94,928.41 USD

IBM Facilities and Real Estate Management (TRIRIGA) on Cloud Lease Volume 100 Item per Month

Subscription Part#: **D2282LL**
 Overage Part#: **D2283LL**
 Billing: **Annual**
 Unit Price: **Tiered**

Committed Term: **32 Months**
 Committed Term Price Change: **Increase 3.000 % every 12 Months**
 Renewal Type: **Terminate at end of current term**

Item	Quantity	Month	Subscription Rate	Item Price	Overage Rate
29	1	1-12	12.00	12.00	380.00
30	1	13-24	12.36	12.36	391.40
31	1	25-32	12.73	8.49	403.14
Subtotal				32.85 USD	

Subscriptions Sub-Total **1,319,171.47 USD**

Other Entitlements

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15264-3600



**IBM Facilities and Real Estate Management (TRIRIGA) On Cloud Occasional Enterprise User
Additional Capacity ADD-ON Authorized User P ay per Use**

Part#: **D1UMQLL**

Committed Term Price Change: **Increase 3.000 % every 12 Months**
Renewal Term Price Change: **Increase 5.000 % at time of first
renewal period and then every 12 Months**

Item	Unit Price
32	195.00 Per Use

**IBM Facilities and Real Estate Management on Cloud (TRIRIGA) for Fully Configurable
Applications Instance On-Demand Setup**

Part#: **D1C7BLL**

Committed Term Price Change: **Increase 3.000 % every 12 Months**
Renewal Term Price Change: **Increase 5.000 % at time of first
renewal period and then every 12 Months**

Item	Unit Price
33	0.00 Per Use

Applicable tax will be recalculated at the time of order processing.

IBM acceptance of the order is subject to credit approval.

Upon placing your order, please supply a Purchase Order or, if not PO driven, a signed Firm Order Letter. The Purchase Order value must cover the applicable charges for a minimum of one year. If the Total Term is less than one year, the Purchase Order value must cover the Total Commit Value.

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PAYMENT SCHEDULE PAGE

This is an estimate of payments, final determination of billing dependent on order date.

Month	Setup Products and Services	Subscription	Total
1	0.00	481,930.20	481,930.20
13	0.00	496,388.11	496,388.11
25	0.00	340,853.16	340,853.16
Total in USD	0.00	1,319,171.47	1,319,171.47

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IBM Terms and Conditions

IBM International Passport Advantage Agreement

The quote or order to which this document relates is governed by the terms of your Passport Advantage Agreement and its associated attachment(s).

IBM Terms for IBM Cloud Offerings

The referenced Cloud Services are governed by the terms of your International Passport Advantage Agreement, its associated attachment(s), and the referenced Transaction Documents. Your order and use of the Cloud Services are your acceptance of the prices and terms referenced in this document, except to the extent superseded by a written amendment or agreement signed by both of us.

Final coverage dates for offerings listed are provided in your Proof of Entitlement.

Transaction Documents

IBM Terms of Use - General Terms for IBM Cloud Offerings at:

<https://www.ibm.com/software/sla/sladb.nsf/sla/ton-gen-terms>

Service Description(s) for ordered Cloud Services:

IBM FACILITIES AND REAL ESTATE MANAGEMENT ON CLOUD (TRIRIGA)

<https://www.ibm.com/support/customer/csol/terms/?id=i126-6781>

IBM MAXIMO EAM SAAS FLEX

<https://www.ibm.com/support/customer/csol/terms/?id=i126-6391>

Please read all terms for each of the above referenced Transaction Document(s) to ensure you are agreeing to the most recent version of the document. If you have any trouble with the link provided, please copy and paste the appropriate URL in your browser's navigation bar.

Billing and Provisioning

At time of acceptance of this quote either by Purchase Order or Firm Order Letter, IBM will begin billing for the SaaS Subscription(s) as indicated above. When IBM is ready to provision the SaaS Subscription(s) in the quote IBM will use information provided by the Client, as well as default technical data to configure the clients SaaS Subscription for access. IBM will notify the Client with details on the provisioning on the date in which the Client can access the SaaS and the term for the SaaS will begin on the date indicated. If provisioning information needs to be updated please refer to the IBM Software as a Service (SaaS) Support Handbook.

Please work with your IBM Sales Representative or your IBM Business Partner to complete the provisioning data at or prior to time of order.

If you have any trouble with the link(s) provided, please copy and paste the appropriate URL in your browser's navigation bar.

Useful/Important Web resources:

Passport Advantage information, customer secure site access, training, etc.: www.ibm.com/software/passportadvantage

IBM's International Program License Agreement and product License Information documents: www.ibm.com/software/sla

IBM Software Support Web site: <https://www.ibm.com/software/support/handbook.html>

IBM Customer Number: 2446877