

## FOURTH AMENDATORY AGREEMENT

**THIS FOURTH 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 **FAST ENTERPRISES, LLC**, a limited liability company registered to do business in Colorado, whose address is 7229 S. Alton Way, Centennial, CO 80112, (the "Contractor"), collectively "the parties".

### WITNESSETH:

**A.** The City and Contractor entered into an Agreement dated January 13, 2009, as amended by Amendatory Agreement dated June 25, 2012, Second Amendatory Agreement dated December 14, 2014, and a Third Amendatory Agreement dated November 20, 2015 (the "Agreement").

**B.** The City and Contractor wish to amend the Agreement to extend the term, increase the maximum contract amount, and add hourly rates for On-Call services, as set forth below.

The parties agree as follows:

1. Exhibit A-5 attached to this Fourth Amendatory Agreement and incorporated herein by this reference, sets forth the maximum amounts to be paid for maintenance and support services for 2019 through December 31, 2021 and any On-Call services. All references to "...Exhibit A..." in the Agreement shall be amended to read: "Exhibit A, A-1, A-2, A-3, A-4, and A-5 as applicable...". On-Call services rates are set out on **Exhibit A-5**. The City may authorize specific assignments for the Contractor by placing a written service order signed by the Manager and the Contractor (the "Order") describing in sufficient details the services and/or deliverables and rates to be provided. The Contractor agrees that during the term of this Agreement it shall fully coordinate its provision of the services with any person or firm under contract with the City doing work or providing services which affect the Contractor's services. The Contractor shall faithfully perform the work in accordance with the standards of care, skill, training, diligence and judgment provided by highly competent individuals and entities that perform services of a similar nature to those described in this Agreement. Contractor represents and warrants that all services will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards; all services will conform to applicable specifications and as attached to the Order, if any; and, it has the requisite ownership, rights and licenses to perform its obligations under this Agreement fully as contemplated hereby and to grant to the City all rights with respect to any software and services free and clear from any and all liens, adverse claims, encumbrances and interests of any third party.

2. Paragraph 2 of the Agreement, entitled "**TERM**", is amended to read as follows:

**"2. TERM:**

The Term of this Agreement shall commence on January 13, 2009

and shall expire on December 31, 2021.

3. Paragraph **3.D.1** of the Agreement, entitled “**Maximum Contract Liability**”, is amended to read as follows:

“**D. Maximum Contract Liability:**

(1) Any other provision of this Agreement notwithstanding, in no event shall the City be liable to pay for services rendered and expenses incurred by the Contractor under the terms of this Agreement, if all Renewal Terms are exercised, for any amount in excess of **Fifteen Million Six Hundred Twenty-Six Thousand Five Hundred Dollars (\$15,626,500.00)** (the “Maximum Contract Amount”) payable in accordance with Exhibits A, A-1, A-2, A-3, A-4, and A-5. The Contractor acknowledges that the City is not obligated to execute an amendment to this Agreement for any services and that any services performed by the Contractor beyond that specifically described herein are performed at Contractor’s risk and without authorization under this Agreement.

4. The following provision is hereby added as **Section 39. Limitation on Liability:**

39. **Limitation on Liability:** Either party’s liability to the other for damages under this Contract is limited to direct damages and further to no more than the greater of FOUR MILLION DOLLARS (\$4,000,000.00) or the Contract amount for the year in which the claim arose. Neither party shall be liable to the other for special, incidental, consequential, punitive, or indirect damages. Damages caused by injury to persons or tangible property, or related to intellectual property indemnification, or other damages owed to a third party to the extent such damages were caused by the Contractor are not subject to a cap on the amount of damages.

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

**[SIGNATURE PAGES AND EXHIBITS A-5 FOLLOW THIS PAGE]**

**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 \_\_\_\_\_



**Contract Control Number:** TECHS-CE06001-04

**Contractor Name:** FAST ENTERPRISES, LLC.

By: *James G. Garrison*

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

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

**ATTEST: [if required]**

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

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

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



## Exhibit A-5

The following table details fees for maintenance and support for GenTax and TAP (e-Biz).

<b>Year</b>	<b>Maintenance</b>	<b>Support</b>	<b>Total</b>
2019	406,000	885,000	1,291,000
2020	418,500	912,000	1,330,500
2021	431,500	939,500	1,371,000
<b>Total Contract</b>	<b>1,256,000</b>	<b>2,736,500</b>	<b>3,992,500</b>

### On-Call Professional Services:

For Professional Service requests that fall outside of maintenance and support, FAST Enterprises will charge a rate \$300/hr for short term work (e.g. less than 1 year) or \$200/hr for longer term work (e.g. greater than 1 year). These rates apply to Fast employees regardless of their experience (e.g. it's a blended rate that includes work, travel, lodging, expenses, etc.).