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ON CALL
TECHNOLOGY SERVICES
AGREEMENT

THIS AGREEMENT ("Agreement") is by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City") and **TEKSYSTEMS, INC.,** a Maryland corporation, whose address is 7437 Race Road, Hanover, Maryland 21076 (the "Consultant"). Each party may be individually referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the City desires to contract with an information technology consultant; and

WHEREAS, the Consultant is qualified and ready, willing and able to perform the services as set forth in this Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

The recitals set forth above are incorporated herein as set forth in their entirety.

1. SCOPE OF SERVICES; ORDER: The Consultant shall provide qualified contract employees, who will work under the general direction of, and in coordination with City's Chief Information Officer, or other designated supervisory personnel (the "Manager"), shall diligently assist with any and all authorized services required under this Agreement. The Consultant will provide qualified contract employees to support the provisioning of technology services to the City and its constituents. These specialized services are set out on the attached rate sheet, along with the rates, identified on attached **Exhibit A**. The City shall authorize specific assignments for the Consultant by placing a written service order signed by the Manager and the Consultant (the "Order") describing in sufficient details the services and/or deliverables and rates to be provided. The City and the Consultant may also enter into flat rate Orders when those are in the best interest of the City as determined by the Manager. The Consultant 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 Consultant's services. The Consultant 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. Consultant represents and warrants that all services will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards; and, it has the requisite ownership, rights and licenses to perform its obligations under this Agreement fully as contemplated hereby

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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. TERM: The term of this Agreement shall commence on May 1, 2020, and shall terminate on May 1, 2025, unless earlier terminated in accordance with the Agreement. Subject to the Manager's prior written authorization, the Consultant 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 Manager.

3. COMPENSATION AND PAYMENT:

A. Fee: The City agrees to pay to the Consultant, and the Consultant agrees to accept as its sole compensation for its services rendered and costs incurred under this Agreement, the rates set forth on attached **Exhibit B**.

B. Reimbursement Expenses: There are no reimbursable expenses allowed under this Agreement, including travel, unless specifically set out on the rate sheet and the amount is agreed to is then later approved in writing by the City prior to being incurred. All expenses and materials of the Consultant are contained in the rates contained in Section 3(A) of this Agreement.

C. Invoicing: Consultant shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City. The City shall pay any undisputed amounts in accordance with its obligations under the City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C.

D. Maximum Contract Liability:

(i) 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 Consultant under the terms of this Agreement for any amount in excess of **FIVE MILLION DOLLARS ($5,000,000.00)** (the "Maximum Contract Amount"). The Consultant acknowledges that the City is not obligated to execute an agreement or an amendment to Consultant for any further services and that any services performed by Consultant beyond that specifically described in **Exhibit A** or contained in an Order are performed at Consultant's risk and without authorization under this Agreement.

(ii) The Parties agree that the City's payment obligation, whether direct or contingent, shall extend only to funds appropriated annually by the Denver City Council, paid

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into the Treasury of the City, and encumbered for the purpose of this Agreement. The Parties agree that (i) the City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

4. STATUS OF CONSULTANT: The Consultant is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Consultant nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

5. TERMINATION:

A. The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon twenty (20) days prior written notice to the Consultant. However, nothing gives the Consultant the right to perform services under the Agreement beyond the time when its services become unsatisfactory to the Manager.

B. Notwithstanding the preceding paragraph, the City may terminate the Agreement if the Consultant or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Consultant's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

C. Upon termination of the Agreement, with or without cause, the Consultant shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the Agreement.

D. If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Consultant's possession, custody, or control by whatever method the City deems expedient. The Consultant shall deliver all documents in any form that were prepared under the Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Consultant shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

F. Upon termination of this Agreement by the City, the Consultant shall not have any claim against the City by reason of such termination or by reason of any act incidental to

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termination, except for compensation for work satisfactorily performed as described in this Agreement.

6. INTELLECTUAL PROPERTY RIGHTS: The City and Consultant intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Consultant and paid for by the City pursuant to this Agreement, in preliminary or final forms and on any media (collectively, "Materials"), shall belong to the City. The Consultant shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq*., the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a "work made for hire," the Consultant hereby sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark and other intellectual property rights in perpetuity.

7. CITY INFORMATION:

A. The Consultant acknowledges and accepts that, in performance of all work under the terms of this Agreement, the Consultant may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. The Consultant agrees that all Proprietary Data or confidential information provided or otherwise disclosed by the City to the Consultant shall be held in confidence and used only in the performance of its obligations under this Agreement. The Consultant shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent consultant would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential" and provided to or made available to the Consultant by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

B. Except as expressly provided by the terms of this Agreement, the Consultant agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available the Proprietary Data or confidential information or any part thereof to any other person, party or entity in any form or media for any purpose other than performing its obligations under this Agreement. The Consultant further acknowledges that by providing this Proprietary Data or confidential information, the City is not granting to the Consultant any right

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

or license to use such data except as provided in this Agreement. The Consultant further agrees not to disclose or distribute to any other party, in whole or in part, the Proprietary Data or confidential information without written authorization from the Manager.

C. The Consultant acknowledges and understands that the Proprietary Data may not be completely free of errors. The Proprietary Data should be used for reference only and should not be relied upon in any other way, and the Consultant is hereby advised to independently verify all work performed in reliance upon the Proprietary Data.

D. The Consultant agrees that any ideas, concepts, know-how, computer programs, or data processing techniques developed by the Consultant or provided by the City in connection with this Agreement, any Proprietary Data, or any confidential information shall be deemed to be the sole property of the City and all rights, including copyright, shall be deemed to be the sole property of the City and all rights, including copyright, shall be reserved to the City. The Consultant agrees, with respect to the Proprietary Data and confidential information, that: (1) the Consultant shall not copy, recreate, reverse, engineer or decompile such data, in whole or in part, unless authorized in writing by the Manager; (2) the Consultant shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; (3) the Consultant shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City.

E. The Consultant will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of the Consultant under this Agreement shall survive the expiration or earlier termination of this Agreement. The Consultant shall not disclose Proprietary Data or confidential information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at lease as strict as those contained in this Agreement.

F. Notwithstanding any other provision of this Agreement, the City is furnishing Proprietary Data and confidential information on an "as is" basis, without any support whatsoever, and without representation, warranty or guarantee, including but not in any manner limited to, fitness, merchantability or the accuracy and completeness of the Proprietary Data or confidential information. The Consultant is hereby advised to verify its work. The City assumes no liability for any errors or omissions herein. Specifically, the City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute program, claims by third parties, or for similar costs. If discrepancies are found, the Consultant agrees to contact the City immediately.

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

8. Consultant's Information: The Parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, *et seq*., 7B C.R.S. (2003), and that in the event of a request to the City for disclosure of such information, the City shall advise the Consultant of such request in order to give the Consultant the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Consultant agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. The Consultant further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Consultant's intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

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 Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Contractor. 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 Contractor. to make disclosures in violation of state or federal privacy laws. Contractor shall at all times comply with D.R.M.C. 20-276. .

10. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any action by a Party constitute or be construed to be a waiver by that party of any breach of covenant or default which may then exist on the part of the other Party. A Party's action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available to that Party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any other breach.

11. PERSONNEL:

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

A. All key personnel identified in an Order will be dedicated by Consultant to the City. The Consultant shall submit to the Manager a list of any additional personnel who will perform services under an Order within thirty (30) days after an Order has been submitted, together with complete resumes and other information describing their ability to perform the services. Such additional personnel must be approved in writing by the Manager.

B. The Parties intend that all key personnel be engaged to perform their specialty for all services required by an Order and that the Consultant shall retain all key personnel for the term of the Order. If the Consultant must replace any of its key personnel, it shall notify the Manager in writing of the changes. No such replacement shall be made until the replacement is approved by the Manager, which approval shall not be unreasonably withheld. The Manager shall respond to the Consultant's written notice of replacement within fifteen (15) days of receipt. If the Manager does not respond within that time, the listed replacement personnel shall be deemed approved. If during the term of the Agreement, the Manager determines that the performance of approved key personnel is not acceptable, he shall in his sole and absolute discretion either (a) give the Consultant a reasonable period of time to correct the performance or (b) require the Consultant to replace the personnel as soon as practicable.

C. While the Consultant may retain and contract with subcontractors, no final agreement with any subcontractor shall be entered into without the written consent of the Manager. Requests for approval of subcontractors must be made in writing and include a description of the nature and extent of services to be provided by the subcontractor; the name, address and experience and qualifications of the subcontractor; and any other information which may be requested by the Manager. Because the Consultant's represented qualifications are a consideration to the City in entering into this Agreement, the Manager shall have the right to reject any proposed subcontractor deemed unqualified or unsuitable for any reason to perform the proposed services, and the Manager shall have the right to limit the number of subcontractors. The Manager shall respond to the Consultant's written notice regarding a subcontractor within thirty (30) days of receipt. If the Manager does not respond within that time, the subcontractor shall be deemed approved. Approval of the subcontractor shall not relieve the Consultant of any obligations under this Agreement. Any final agreement with the approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make a claim of payment against any City property arising out of the performance of this Agreement.

D. The Consultant is prohibited from hiring any subcontractor that is currently debarred by the City in accordance with D.R.M.C. § 20-77.

12. **WARRANTIES, REPRESENTATIONS AND COVENANTS** Consultant represents and warrants that.

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

A. All technology related services will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards;

B. Consultant 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 all liens, adverse claims, encumbrances and interests of any Third Party;

C. There are no pending or threatened lawsuits, claims, disputes or actions: (i) alleging that any software or service infringes, violates or misappropriates any Third Party rights; or (ii) adversely affecting any software, service or supplier's ability to perform its obligations hereunder;

D. The service will not violate, infringe, or misappropriate any patent, copyright, trademark, trade secret, or other intellectual property or proprietary right of any Third Party;

E. Consultant warrants it has complied and shall comply with all applicable federal, state, and local laws and regulations of its domicile and wherever performance occurs during the term of this Agreement;

F. Delivery of services shall not be construed to represent acceptance nor shall delivery relieve Consultant from its responsibility under any representation or warranty. If the City makes a payment prior to acceptance, the payment does not grant a waiver of any representation or warranty by Consultant.

13. INSURANCE:

A. **General Conditions**: Consultant agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Consultant shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the above-described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement and shall reference the City contract number

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Consultant shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Consultant. Consultant shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Consultant. The Consultant shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

B. **Proof of Insurance**: Consultant shall provide a copy of this Agreement to its insurance agent or broker. Consultant may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Consultant certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Consultant's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

C. **Additional Insureds**: For Commercial General Liability, Auto Liability and Professional Liability, Consultant and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

D. **Waiver of Subrogation**: For all coverages required under this Agreement, Consultant's insurer shall waive subrogation rights against the City.

E. **Subcontractors and Subconsultants**: All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Consultant. Consultant shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Consultant agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

F. **Workers' Compensation/Employer's Liability Insurance**: Consultant shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of $100,000 per occurrence for each bodily injury claim, $100,000 per occurrence for each bodily injury caused by disease claim, and $500,000 aggregate for all bodily injuries caused by disease claims. Consultant expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Consultant's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Consultant executes this Agreement.

G. **Commercial General Liability**: Consultant shall maintain a Commercial General Liability insurance policy with limits of $1,000,000 for each occurrence, $1,000,000 for each personal and advertising injury claim, $2,000,000 products and completed operations aggregate, and $2,000,000 policy aggregate.

H. **Business Automobile Liability**: Consultant shall maintain Business Automobile Liability with limits of $1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

I. **Technology Errors & Omissions including Cyber Liability:** Contractor shall maintain Technology Errors and Omissions insurance including cyber liability, network security, privacy liability and product failure coverage with limits of $1,000,000 per occurrence and $1,000,000 policy aggregate

J. **Additional Provisions:**

(a) For Commercial General Liability and Excess Liability, the policies must provide the following:

(i) That this Agreement is an Insured Contract under the policy;
(ii) Defense costs are outside the limits of liability;
(iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
(iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(b) For claims-made coverage:
(i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

(c) Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

14. DEFENSE AND INDEMNIFICATION:

A. Consultant 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 relating to the work performed under this Agreement ("Claims"), unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Consultant or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

B. Consultant's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Consultant's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

C. Consultant 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 Consultant under the terms of this indemnification obligation. The Consultant 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.

F. Consultant will, at Consultant's expense, indemnify, defend and hold harmless the City, its officers, agents and employees from and against any loss, cost, expense or

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

liability (including but not limited to attorney's fees and awarded damages) arising out of a claim that the products or services supplied or provided by the Consultant, or their use by the City, infringe, violate or misappropriate a patent, copyright, trademark, trade secret or other intellectual property or proprietary right of any third party. The City will promptly notify Consultant in writing of any claim and cooperate with Consultant and its legal counsel in the defense thereof. Consultant shall, in its discretion, perform some or all of the following actions to ensure that the City is not negatively impacted in the functionality of its technology services because of an infringing product: (i) contest, (ii) settle, (iii) procure for the City the right to continue using the product, or (iv) modify or replace the infringing product so that it no longer infringes (as long as the functionality and performance are not degraded as reasonably determined by the City). The City may participate in the defense of such action at its own expense.

G. Neither party shall be liable for any special, indirect or consequential damages, including lost profits and any other commercial or economic loss of any kind and arising in consequences of the other party's performance, failure to perform, or other breach under this agreement. Except for indemnification obligations, the parties' total liability under this Agreement shall be limited to three times the total value of services provided in the last calendar year or one million dollars ($1,000,000), whichever value is greater.

15. COLORADO GOVERNMENTAL IMMUNITY ACT: The Parties agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, C.R.S. § 24-10-101, *et seq*.

16. TAXES, CHARGES AND PENALTIES: The City shall not be liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq*. The Consultant shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under this Agreement and shall allow no lien, mortgage, judgment or execution to be filed against City property, including but not limited to land, facilities, improvements or equipment.

17. ASSIGNMENT AND SUBCONTRACTING: The Consultant shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Manager's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and will be cause for termination of this Agreement by the City. The Manager has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

assignment: (i) the Consultant shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-consultant, subcontractor or assign.

18. NO THIRD PARTY BENEFICIARY: Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Consultant receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

19. NO AUTHORITY TO BIND CITY TO CONTRACTS: The Consultant lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

20. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS: This Agreement is the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other modification related to the subject matter herein shall have any force or effect, unless embodied in this Agreement in writing. No subsequent novation, renewal, addition, deletion, or other amendment shall have any force or effect unless embodied in a written amendment to this Agreement properly executed by the Parties. No oral representation by any officer or employee of the City at variance with the terms and conditions of this Agreement or any written amendment to this Agreement shall have any force or effect nor bind the City. This Agreement and any amendments to it shall be binding upon the Parties and their successors and assigns.

21. SEVERABILITY: The Parties agree that if any provision of this Agreement or any portion thereof, except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected if the intent of the Parties can be fulfilled

22. CONFLICT OF INTEREST:

A. No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Consultant shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

B. The Consultant shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Consultant represents that it has

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Consultant by placing the Consultant's own interests, or the interests of any party with whom the Consultant has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement if it determines a conflict exists, after it has given the Consultant written notice describing the conflict.

23. NOTICES: All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Consultant at the address first above written, and if to the City at:

Chief Information Officer
201 West Colfax Avenue, 3rd Floor
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

24. DISPUTES: All disputes between the City and Consultant regarding this Agreement shall be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b), *et seq*. For the purposes of that procedure, the City official rendering a final determination shall be the Manager.

25. GOVERNING LAW; VENUE: This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted or promulgated pursuant to the Charter and Code, including any amendments. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

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26. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this contract, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

27. WARRANTY: Consultant represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of Consultant represents and warrants that he has been fully authorized by Consultant to execute this Agreement on behalf of Consultant and to validly and legally bind Consultant to all the terms, performances and provisions of this Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either Consultant or the person signing the Agreement to enter into this Agreement.

28. NO CONSTRUCTION AGAINST DRAFTING PARTY: Each of the Parties acknowledge that they and their respective counsel have had the opportunity to review this Agreement and that this Agreement shall not be construed against any Party merely because this Agreement or any of its provisions were prepared by a particular Party.

29. ORDER OF PRECEDENCE: In the event of any conflicts between the language of this Agreement and the exhibits, the language of the Agreement shall control.

30. SURVIVAL OF CERTAIN PROVISIONS: The Parties agree that all terms and conditions of this Agreement, together with any exhibits and attachments, which by reasonable implication contemplate continued performance or compliance beyond the termination of this Agreement, by expiration of the term or otherwise, shall survive termination and shall continue to be enforceable. Without limiting the generality of this provision, the Consultant's obligations to provide insurance and to indemnify the City shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

31. COMPLIANCE WITH ALL LAWS: All of the services performed under this Agreement by the Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and State of Colorado and with the charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver, as amended.

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32. ADVERTISING AND PUBLIC DISCLOSURE: The Consultant shall not include any reference to this Agreement or to services performed pursuant to this Agreement in any of its advertising or public relations materials without first obtaining the written approval of the Manager, which will not be unreasonably withheld. Any oral presentation or written materials related to services performed under this Agreement shall include only services that have been accepted by the City. The Manager shall be notified in advance of the date and time of any such presentation. Nothing in this provision shall preclude the transmittal of any information to officials of the City, including without limitation the Mayor, the Manager, City Council or the Auditor.

33. TIME IS OF THE ESSENCE: The Parties agree that in the performance of the terms, conditions, and requirements of this Agreement and any Order, time is of the essence.

34. CITY EXECUTION OF AGREEMENT: This Agreement shall not be effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

35. COUNTERPARTS OF THIS AGREEMENT: This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement.

36. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:
Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the Agreement, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

37. BACKGROUND CHECKS ON CONSULTANT'S EMPLOYEES. The Consultant is responsible for completing background checks on any employee who will be engaged with the City under this Agreement in accordance with the City's Executive Order 135 The Consultant shall have performed Criminal Background checks, Financial/ Credit Checks, and Educational Background checks for all employees prior to beginning work with the City. The Consultant shall certify that there are no misdemeanor or felony convictions for any employee working within the various departments of the City. The Consultant shall affirm that it has performed the background check as determined by the Order and submit its affirmation on a form supplied by the City. If the Consultant falsely represents the contents of any affirmation or background check it shall be grounds for immediate termination of this Agreement.

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Contract Control Number: TECHS-202054175-00
Contractor Name: TEKSYSTEMS INC

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:

Attorney for the City and County of Denver

By: _____

REGISTERED AND COUNTERSIGNED:

By: _____

By: _____

DocuSign Envelope ID: DB25169A-5CF5-4227-89F5-BBD408D564F2

Contract Control Number: TECHS-202054175-00
Contractor Name: TEKSYSTEMS INC

By: DocuSigned by: Todd Kennedy
B409CE0E2CA0474...

Name: Todd Kennedy
(please print)

Title: Sr Account Executive
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

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EXHIBIT A

The City shall engage supplier in providing qualified On-call Professional Information Technology Services staff for the purpose of augmenting City project staffing as needed.

Supplier shall supply resources relating to Staff Augmentation/ Recruiting Services/ Management Consulting Services in accordance with the rates identified below and per the descriptions in the City and County of Denver's Request for Proposal No. 28962.

Staff Augmentation/ Recruiting Services are comprised of the following:

- General Technical Services
- Specialty Development and Support
- Infrastructure Services
- Network Services

MANAGEMENT CONSULTING

Management consulting helps organizations solve issues, create value, and improve the business performance of their clients. It provides objective advice, expertise and specialist skills. Management consulting is primarily concerned with the strategy, structure, management and operations of an organization. It will identify options for the organization and suggest recommendations for change, as well as helping with additional resources to implement solutions. Examples of Management Consulting needs could include, but are not limited to, IT Maturity Studies, Organization Assessments, and Marketing Studies.

A Management Consultant is a senior expert on specific systems and organizing and running teams. The Management Consultant performs evaluation of the needs from a broad level and provides guidance on how to setup, train and manage Subject Matter Teams.

- Reviews business and functional requirements across the entire organization.
- Recommends structures for departments and teams.
- Assists in planning future direction and goals for the organization's needs.
- Provides coaching and mentoring for directors, team leads and project owners
- Assists in high-level architecture design and execution particularly with regards to trends within a specific application under development and validating design in comparison with industry wide best practices.

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EXHIBIT B

	Cost Per Hour (includes all costs for travel, per diem, etc.)	
	Minimum Hourly Rate	Maximum Hourly Rate
Management Consultant B.4.A.1	$ 100.00	$ 285.00
Business Analyst B.4.B.1	$ 60.00	$ 81.00
Senior Business Analyst B.4.B.2	$ 75.00	$ 100.00
Systems Analyst B.4.B.3	$ 65.00	$ 82.00
Senior Systems Analyst B.4.B.4	$ 75.00	$ 100.00
Project Coordinator B.4.B.5	$ 45.00	$ 60.00
Project Manager B.4.B.6	$ 61.00	$ 80.00
Senior Project Manager B.4.B.7	$ 78.00	$ 105.00
Program Manager B.4.B.8	$ 80.00	$ 130.00
Quality Assurance Engineer B.4.B.9	$ 60.00	$ 85.00
Senior Quality Assurance Engineer B.4.B.10	$ 72.00	$ 100.00
Technical Writer B.4.B.11	$ 45.00	$ 79.00
Desktop Support B.4.B.12	$ 35.00	$ 50.00
Helpdesk Support B.4.B.13	$ 30.00	$ 45.00
Technical Trainer B.4.B.14	$ 45.00	$ 110.00
Service Oriented Architecture (SOA) & Enterprise Integration (B.4.C.a)		
Senior Java Developer B.4.C.a.1	$ 75.00	$ 110.00
Senior SOA Developer B.4.C.a.2	$ 85.00	$ 150.00
Solution Architect B.4.C.a.3	$ 83.00	$ 154.00
Integration Architect B.4.C.a.4	$ 85.00	$ 145.00
Enterprise Architect B.4.C.a.5	$ 80.00	$ 140.00
Geographical Information Systems (B.4.D)		
GIS Analyst B.4.D.1	$ 70.00	$ 122.00
Senior GIS Analyst B.4.D.2	$ 75.00	$ 144.00
GIS Developer B.4.D.3	$ 70.00	$ 122.00
Senior GIS Developer B.4.D.4	$ 75.00	$ 144.00
Enterprise Document Management (B.4.E)		
Document Management Systems Analyst B.4.E.1	$ 90.00	$ 150.00
Document Management Developer B.4.E.2	$ 110.00	$ 165.00
Senior Document Management Developer B.4.E.3	$ 110.00	$ 170.00

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Identity Management, Directory Services, and Information Security (B.4.F)		
Information Security Engineer B.4.F.1	$ 90.00	$ 130.00
Information Security Architect B.4.F.2	$ 95.00	$ 150.00
Identity Management Architect B.4.F.3	$ 90.00	$ 165.00
Identity Management Developer B.4.F.4	$ 90.00	$ 150.00
Identity Specialist B.4.F.5	$ 80.00	$ 125.00
Mobile Applications Development (B.4.G)		
Mobile Developer B.4.G.1	$ 60.00	$ 90.00
Senior Mobile Developer B.4.G.2	$ 75.00	$ 125.00
Mobile Solution Architect B.4.G.3	$ 90.00	$ 145.00
Enterprise Resource Planning (ERP) (B.4.H)		
ERP Systems Analyst B.4.H.1	$ 90.00	$ 150.00
ERP Developer B.4.H.2	$ 105.00	$ 153.00
ERP System Administrator B.4.H.3	$ 110.00	$ 143.00
Enterprise Database Administration (B.4.I)		
Senior Database Developer B.4.I.1	$ 85.00	$ 115.00
Database Administrator B.4.I.2	$ 65.00	$ 95.00
Senior Database Administrator B.4.I.3	$ 75.00	$ 105.00
Web Development / Design (B.4.J)		
Web Developer B.4.J.1	$ 70.00	$ 90.00
Senior Web Developer B.4.J.2	$ 75.00	$ 110.00
Web Designer B.4.J.3	$ 65.00	$ 100.00
Senior Web Designer B.4.J.4	$ 70.00	$ 110.00
Sharepoint Development / Design (B.4.K)		
Sharepoint Developer B.4.K.1	$ 82.00	$ 110.00
Senior Sharepoint Developer B.4.K.2	$ 90.00	$ 120.00
Sharepoint Analyst B.4.K.3	$ 85.00	$ 115.00
Specialty Development (B.4.L)		
Workday Developer B.4.L.1	$ 90.00	$ 125.00
Mulesoft Developer B.4.L.2	$ 90.00	$ 125.00
Salesforce Developer B.4.L.3	$ 90.00	$ 125.00
Salesforce Architect B.4.L.4	$ 90.00	$ 140.00
ServiceNow Developer B.4.L.5	$ 90.00	$ 135.00
IT Systems Administrator Associate B.4.M.1	$ 50.00	$ 75.00
IT Systems Administrator B.4.M.2	$ 70.00	$ 95.00
Senior IT Systems Administrator B.4.M.3	$ 80.00	$ 115.00
Infrastructure Architect B.4.M.4	$ 115.00	$ 175.00
Systems Architect B.4.M.5	$ 115.00	$ 175.00
A/V Engineer B.4.M.6	$ 70.00	$ 95.00

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Network Administrator I B.4.N.1	$ 50.00	$ 65.00
Network Administrator II B.4.N.2	$ 70.00	$ 95.00
Network Engineer B.4.N.	$ 70.00	$ 105.00
Senior Network Engineer B.4.N.4	$ 90.00	$ 120.00
Cisco Information Systems Security Professional (CISSP-security level engineer) B.4.N.5	$ 90.00	$ 140.00
Network Technician B.4.N.6	$ 50.00	$ 70.00
Telecommunications Technician B.4.N.7	$ 50.00	$ 70.00
Contact Center Engineer B.4.N.8	$ 70.00	$ 95.00
Data Analyst B.4.O.1	$ 50.00	$ 85.00
Data Engineer B.4.O.2	$ 60.00	$ 90.00
Data Architect B.4.O.3	$ 70.00	$ 100.00
Senior Data Architect B.4.O.4	$ 80.00	$ 120.00
Data Scientist B.4.O.5	$ 95.00	$ 125.00
Report Developer B.4.O.6	$ 88.00	$ 110.00
Television and Video Editor and Videographer B.4.P.1	$ 75.00	$ 100.00
Television and Video Producer B.4.P.2	$ 75.00	$ 100.00
Motion Graphics Designer B.4.P.3	$ 55.00	$ 95.00

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ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 04/15/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Altus Partners, Inc
919 Conestoga Road
Building 3, Suite 311
Rosemont PA 19010

CONTACT NAME: Certificates
PHONE (A/C, No, Ext): (610)526-9130 FAX (A/C, No): (610)526-2021
E-MAIL ADDRESS: Certificates@altuspartners.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : ACE American Insurance Company	22667
INSURER B : ACE Property and Casualty Insurance Com	20699
INSURER C : Indemnity Insurance Co. of North Americ	43575
INSURER D : Illinois Union Insurance Co.	27960
INSURER E : Federal Insuance Co.	20281
INSURER F :	

INSURED
TEKsystems, Inc
7437 Race Road
Hanover MD 21076

COVERAGES **CERTIFICATE NUMBER:** 19-20 Standard + Prof/Fid **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR X $1,000,000 SIR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY / PRO-JECT / LOC OTHER:	X	Y	G71232104	11/30/2019	11/30/2020	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 2,000,000 $ 1,000,000 $ 10,000 $ 2,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY ANY AUTO X ALL OWNED AUTOS / SCHEDULED AUTOS X HIRED AUTOS / X NON-OWNED AUTOS	X	Y	H25285608(H&NO)/H25285566	11/30/2019	11/30/2020	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED X RETENTION $ 100,000	X	Y	G27926691 005	11/30/2019	11/30/2020	EACH OCCURRENCE AGGREGATE	$ 15,000,000 $ 15,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N (N/A) (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y	C66043721 (AOS) C66043769 (CA, MA) C66043642 (WI)	11/30/2019 11/30/2019 11/30/2019	11/30/2020 11/30/2020 11/30/2020	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
D	Professional Liability			G46885090 001	11/30/2019	11/30/2020	($1M SIR) $5M per Claim	$5,000,000 Agg
E	Fidelity (3rd Party)			8221-4266	11/30/2019	11/30/2020		$5,000,000 LMT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

This certificate is issued as evidence of insurance, subject to the policy terms, conditions and exclusions, including the following provisions:
•The General, Auto and Excess Liability policies provide Additional Insured status, apply on a Primary and Non-Contributory basis, and includes a Waiver of Subrogation if required by the City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers per a written contract executed prior to the date of loss.
•The Workers' Compensation policy includes a Waiver of Subrogation and provides Alternate Employer

CERTIFICATE HOLDER

baldersl@teksystems.com

City and County of Denver
Department of Technology Services
201 W. Colfax Ave. Dept 301
Denver, CO 80202

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Laura Dougherty/CERTS

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COMMENTS/REMARKS

status
if required by the City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers per a written contract executed prior to the date of loss where permissible.
•The Fidelity policy includes Certificate Holder as a payee for any loss from theft or forgery caused by the Insured’s employees and covered by the policy.
•Producer will endeavor to send written notice to the Certificate Holder 30 days prior to cancellation of any policy listed above.

Contract #: TECHS-202054175

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