DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

# Contract Abstract

A Matter #:A-39413

## Contract Information

MAL

Contract & Solicitation Title: CityWorks Software Enterprise License

Contract Summary: Contractor agrees to provide the Enterprise License Agreement for Cityworks Software.

Contract Number: 430826 Solicitation Number: N/A Requisition Number: N/A

Replaces Expiring Contract? (Enter "No" or Expiring Contract No.): No

Type of Contract/PO: Multi-Year Contract **Requires Council Legislation: Yes**

Estimated Start Date: 11/07/2018 Estimated Expiration Date: 11/06/2023 Contract Term: 60 Months

Estimated Contract Life Value: $1,032,000.00 Fund: ~~40009~~ 40011 BU: ~~42481001~~ 42481011

Payment Terms: Net 30 Selection Method: Sole Source

Procurement Staff: Terri Troup BAO Staff: Tina Burt

Department(s) Served: **ITS**

## Prime Contractor Information

Prime Contracting Firm: Azteca Systems, LLC

Address: 11075 South State, Suite 24

City: Sandy State: UT Zip: 84070

Prime Contractor is (Check Applicable): SBE ☐ SDV ☐ MBE ☐ WBE ☐

Prime Company Contact: Jeremy White Email Address: jwhite@cityworks.com

Phone #: 1-816-351-5777 E1#: 460884

**Prime Contractor Signatory:** Brian L. Haslam **Email Address:** bhasalm@cityworks.com

## Disadvantaged Business Participation for Entire Contract

Small Business and Service Disabled

Veteran Business Program: No SBE/SDV participation Amount: $0.00

Percent, if applicable: 0.0%

Procurement Nondiscrimination Program: Program Not Applicable Amount: $0.00

Percent: 0.0%

Federal Disadvantaged Business Enterprise: No Amount: $0.00

* Amounts and/or percentages are not exclusive. Percent: 0.0%

## Summary of Offers

| Summary of Offers | Score (RFQ Only) | Evaluated Cost | Result |
|---|---|---|---|
| Azteca Systems, LLC | N/A | N/A | Approved Sole Source Form |
| | | | Evaluated but not selected |
| | | | No Other Offers |
| | | | No Other Offers |

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



**Terms and Conditions**

## 1. GOODS AND SERVICES CONTRACT

### 1.1. Heading

This contract is initiated by and between **The Metropolitan Government of Nashville and Davidson County** ("METRO") and **Azteca Systems, LLC** ("CONTRACTOR") located at **11075 South State, Suite 24, Sandy, UT 84070**. This Contract consists of the following documents:

- ***Any properly executed contract amendment (most recent with first priority),***
- ***This document, including exhibits,***
    - ***Exhibit A - Cityworks License and Maintenance Agreement (SLA),***
    - ***Exhibit B - ISA Terms and Conditions***
- ***Approved Sole Source and supporting documentation (all made a part of this contract by reference),***
- ***Purchase Orders (and PO Changes),***

In the event of conflicting provisions, all documents shall be construed in the order listed above.

## 2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

### 2.1. Duties and Responsibilities

CONTRACTOR agrees to provide the Enterprise License Agreement for Cityworks Software.

### 2.2. Delivery and/or Installation.

All deliveries (if provided by the performance of this Contract) are provided by electronic link made available as per 3.4 SLA.

METRO assumes no liability for any goods delivered without a purchase order. All deliveries shall be made as defined in the solicitation or purchase order and by the date specified on the purchase order.

Installation, if required by the solicitation and/or purchase order shall be completed by the date specified on the purchase order.

## 3. CONTRACT TERM

### 3.1. Contract Term

The Contract Term will begin on the date this Contract is approved by all required parties and filed in the Metropolitan Clerk's Office. Effective date of software is set forth in Addendum 1 of Exhibit A. The Contract Term will end exceed sixty (60) months from the date of filing with the Metropolitan Clerk's Office. In no event shall the term of this Contract exceed sixty (60) months from the date of filing with the Metropolitan Clerk's Office.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



## 4. COMPENSATION

### 4.1. Contract Value

This Contract has an estimated value of $1,032,000.00. The pricing details are included in addendum 1 of the SLA (Exhibit A).

### 4.2. Other Fees

There will be no other charges or fees for the performance of this Contract. METRO will make reasonable efforts to make payments within 30 days of receipt of invoice but in any event shall make payment within 60 days. METRO will make reasonable efforts to make payments to Small Businesses within 15 days of receipt of invoice but in any event shall make payment within 60 days.

### 4.3. Payment Methodology

Payment in accordance with the terms and conditions of this Contract shall constitute the entire compensation due CONTRACTOR for all goods and/or services provided under this Contract.

METRO will compensate CONTRACTOR in accordance with the terms of Exhibit A of this Contract. Subject to these payment terms and conditions, CONTRACTOR shall be paid for delivered/performed products and/or services properly authorized by METRO in accordance with this Contract.

### 4.4. Electronic Payment

All payments shall be effectuated by ACH (Automated Clearing House).

### 4.5. Invoicing Requirements

CONTRACTOR shall invoice METRO annually in accordance with the terms of Exhibit A of this Contract.

### 4.6. Subcontractor/Subconsultant Payments

When payment is received from METRO, CONTRACTOR shall within fourteen (14) calendar days pay all subcontractors, subconsultants, laborers, and suppliers the amounts they are due for the work covered by such payment. In the event METRO becomes informed that CONTRACTOR has not paid a subcontractor, subconsultant, laborer, or supplier as provided herein, METRO shall have the right, but not the duty, to issue future checks and payments to CONTRACTOR of amounts otherwise due hereunder naming CONTRACTOR and any such subcontractor, subconsultant, laborer, or supplier as joint payees. Such joint check procedure, if employed by METRO, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit METRO to repeat the procedure in the future. If persistent, this may be determined to be a material breach of this Contract.

## 5. TERMINATION

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



**5.1. Breach**

Should CONTRACTOR fail to fulfill in a timely and proper manner its obligations under this Contract or if it should violate any of the terms of this Contract, then the provisions of Article 5 of the SLA apply.

**5.2. Lack of Funding**

Should funding for this Contract be discontinued, METRO shall have the right to terminate this Contract immediately upon thirty (30) day written notice to CONTRACTOR.

**5.3. Notice**

Metro may terminate this Contract for convenience pursuant to Article 5.3 of SLA.

**6. NONDISCRIMINATION**

**6.1. METRO's Nondiscrimination Policy**

It is the policy of METRO not to discriminate on the basis of race, creed, color, national origin, age, sex, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

**6.2. Nondiscrimination Requirement**

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in METRO's contracted programs or activities, on the grounds of race, creed, color, national origin, age, sex, disability, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with METRO or in the employment practices of METRO's CONTRACTORs. **CONTRACTOR certifies and warrants that it will comply with this nondiscrimination requirement**. Accordingly, all offerors entering into contracts with METRO shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

**6.3. Covenant of Nondiscrimination**

All offerors have committed to the Covenant of Nondiscrimination when registering with METRO to do business. To review this document, go to METRO's website.

**6.4. Americans with Disabilities Act (ADA)**

CONTRACTOR assures METRO that all services provided shall be completed in full compliance with the Americans with Disabilities Act ("ADA") 2010 ADA Standards for Accessible Design, enacted by law March 15,

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



2012, as has been adopted by METRO. CONTRACTOR will ensure that participants with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

## 7. INSURANCE

### 7.1. Proof of Insurance

During the term of this Contract, for any and all awards, CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect for the duration of this Contract, including any extension(s), the types and amounts of insurance identified below. Proof of insurance shall be required naming METRO as additional insured and identifying either the project name, RFQ, Purchase Order, or Contract number on the ACORD document.

### 7.2. Errors and Ommission Liability Insurance

In the amount of one million ($1,000,000.00) dollars.

### 7.3. General Liability Insurance

In the amount of one million ($1,000,000.00) dollars.

### 7.4. Automobile Liability Insurance

In the amount of one million ($1,000,000.00) dollars (if CONTRACTOR will be making on-site deliveries)

### 7.5. Worker's Compensation Insurance (if applicable)

CONTRACTOR shall maintain workers' compensation insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand ($100,000.00) dollars, as required by the laws of Tennessee (Not required for companies with fewer than five (5) employees).

### 7.6. Such insurance shall:

Contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

For any claims related to this Contract, CONTRACTOR's insurance coverage shall be primary insurance with respects to METRO, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering METRO, its officials, officers, employees, and volunteers shall be in excess of CONTRACTOR's

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



insurance and shall not contribute with it.

Automotive Liability insurance shall include vehicles owned, hired, and/or non-owned. Said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of CONTRACTOR.

CONTRACTOR shall maintain Workers' Compensation insurance (if applicable) with statutory limits as required by the State of Tennessee or other applicable laws and Employers' Liability insurance. CONTRACTOR shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by CONTRACTOR's Workers' Compensation insurance coverage.

**7.7. Other Insurance Requirements**

Prior to commencement of services, CONTRACTOR shall furnish METRO with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

**DEPARTMENT OF LAW**
**INSURANCE AND RISK MANAGEMENT**
**METROPOLITAN COURTHOUSE, SUITE 108**
**PO BOX 196300**
**NASHVILLE, TN 37219-6300**

Provide certified copies of endorsements and policies if requested by METRO in lieu of or in addition to certificates of insurance.

Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.

Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage and to provide evidence of renewal may be treated by METRO as a material breach of this Contract.

Said insurance shall be with an insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the METRO Director of Risk Management Services.

Require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/ Employers Liability insurance (unless subcontractor's employees are covered by CONTRACTOR's insurance) in the same manner as specified for CONTRACTOR. CONTRACTOR shall require subcontractor's to have all necessary insurance and maintain the subcontractor's certificates of insurance.

Any deductibles and/or self-insured retentions greater than $10,000.00 must be disclosed to and approved by METRO **prior to the commencement of services.**

If CONTRACTOR has or obtains primary and excess policy(ies), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

**8. GENERAL TERMS AND CONDITIONS**

**8.1. Taxes**

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



METRO shall not be responsible for any taxes that are imposed on CONTRACTOR. Furthermore, CONTRACTOR understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to METRO.

**8.2. Software License**

CONTRACTOR hereby grants a license pursuant to Article 3 of the SLA.

**8.3. Confidentiality**

Tennessee Code Annotated §10-7-504(i) specifies that information which would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. " Government property" includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. Such records include: (A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property; (B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and (C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

The foregoing listing is not intended to be comprehensive, and any information which METRO marks or otherwise designates as anything other than "Public Information" will be deemed and treated as sensitive information, which is defined as any information not specifically labeled as "Public Information". Information which qualifies as " sensitive information" may be presented in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as sensitive information.

CONTRACTOR, and its Agents, for METRO, may have access to sensitive information. CONTRACTOR, and its Agents, are required to maintain such information in a manner appropriate to its level of sensitivity. All sensitive information must be secured at all times including, but not limited to, the secured destruction of any written or electronic information no longer needed. The unauthorized access, modification, deletion, or disclosure of any METRO information may compromise the integrity and security of METRO, violate individual rights of privacy, and/or constitute a criminal act.

Upon the request of METRO, CONTRACTOR shall return all information in whatever form. In the event of any disclosure or threatened disclosure of METRO information, METRO is further authorized and entitled to immediately seek and obtain injunctive or other similar relief against CONTRACTOR, including but not limited to emergency and ex parte relief where available.

**8.4. Information Ownership**

All METRO information is and shall be the sole property of METRO. CONTRACTOR hereby waives any and all statutory and common law liens it may now or hereafter have with respect to METRO information. Nothing in this Contract or any other agreement between METRO and CONTRACTOR shall operate as an obstacle to such METRO's right to retrieve any and all METRO information from CONTRACTOR or its agents or to retrieve such information or place such information with a third party for provision of services to METRO, including without limitation, any outstanding payments, overdue payments and/or disputes, pending legal action, or arbitration. Upon METRO's request, CONTRACTOR shall supply METRO with an inventory of METRO information that CONTRACTOR stores and/or backs up.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



**8.5. Information Security Breach Notification**

In addition to the notification requirements in any Business Associate Agreement with METRO, when applicable, CONTRACTOR shall notify METRO of any data breach within 24 hours of CONTRACTOR's knowledge or reasonable belief (whichever is earlier) that such breach has occurred ("Breach Notice") by contacting the METRO ITS Help Desk. The Breach Notice should describe the nature of the breach, the scope of the information compromised, the date the breach occurred, and the identities of the individuals affected or potentially affected by the breach as well as specific information about the data compromised so that METRO can properly notify those individuals whose information was compromised. CONTRACTOR shall periodically update the information contained in the Breach Notice to METRO and reasonably cooperate with METRO in connection with METRO's efforts to mitigate the damage or harm of such breach.

**8.6. Copyright, Trademark, Service Mark, or Patent Infringement**

See terms set forth in Article 8 of the SLA.

**8.7. Maintenance of Records**

CONTRACTOR shall maintain documentation for all charges against METRO. The books, records, and documents of CONTRACTOR, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by METRO or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles. In the event of litigation, working papers and other documents shall be produced in accordance with applicable laws and/or rules of discovery. Breach of the provisions of this paragraph is a material breach of this Contract.

**8.8. METRO Property**

Any METRO property, including but not limited to books, records, and equipment that is in CONTRACTOR's possession shall be maintained by CONTRACTOR in good condition and repair, and shall be returned to METRO by CONTRACTOR upon termination of this Contract.

Except as to Contracts involving sensitive information, CONTRACTOR may keep one (1) copy of the aforementioned documents upon completion of this Contract; provided, however, that in no event shall CONTRACTOR use, or permit to be used, any portion of the documents on other projects without METRO's prior written authorization. CONTRACTOR shall maintain sensitive information securely and if required by METRO, provide secured destruction of said information. Distribution and/or reproduction of METRO sensitive information outside of the intended and approved use are strictly prohibited unless permission in writing is first received from the METRO Chief Information Security Officer. The storage of METRO sensitive information to third-party hosted network storage areas, such as Microsoft Skydrive, Google Docs, Dropbox, or other cloud storage mechanisms, shall not be allowed without first receiving permission in writing from the METRO Chief Information Security Officer .

**8.9. Modification of Contract**

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



This Contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

**8.10. Partnership/Joint Venture**

This Contract shall not in any way be construed or intended to create a partnership or joint venture between the Parties or to create the relationship of principal and agent between or among any of the Parties. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No Party shall become liable for any representation, act, or omission of any other Party contrary to the terms of this Contract.

**8.11. Waiver**

No waiver of any provision of this Contract shall affect the right of any Party to enforce such provision or to exercise any right or remedy available to it.

**8.12. Employment**

CONTRACTOR shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

CONTRACTOR shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this Contract.

Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of METRO.

**8.13. Compliance with Laws**

CONTRACTOR agrees to comply with all applicable federal, state and local laws and regulations.

**8.14. Iran Divestment Act**

In accordance with the Iran Divestment Act, Tennessee Code Annotated § 12-12-101 et seq., CONTRACTOR certifies that to the best of its knowledge and belief, neither CONTRACTOR nor any of its subcontractors are on the list created pursuant to Tennessee Code Annotated § 12-12-106. Misrepresentation may result in civil and criminal sanctions, including contract termination, debarment, or suspension from being a contractor or subcontractor under METRO contracts.

**8.15. Taxes and Licensure**

CONTRACTOR shall have all applicable licenses and be current on its payment of all applicable gross receipt taxes and personal property taxes.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



**8.16. Ethical Standards**

CONTRACTOR hereby represents that CONTRACTOR has not been retained or retained any persons to solicit or secure a METRO contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this Contract, a breach of ethical standards, which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

**8.18. Assignment**

The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Any such assignment or transfer shall not release CONTRACTOR from its obligations hereunder.
NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

**METRO'S CHIEF ACCOUNTANT**
**DIVISION OF ACCOUNTS**
**DEPARTMENT OF FINANCE**
**PO BOX 196300**
**NASHVILLE, TN 37219-6300**

Funds Assignment Requests should contain complete contact information (contact person, organization name, address, telephone number, and email) for METRO to use to request any follow up information needed to complete or investigate the requested funds assignment. To the extent permitted by law, METRO has the discretion to approve or deny a Funds Assignment Request.

**8.19. Entire Contract**

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

**8.20. Force Majeure**

No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

**8.21. Governing Law**

The validity, construction, and effect of this Contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee except that US Federal Law shall govern matters of intellectual property. Tennessee law shall govern regardless of any language in any attachment or other document

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



that CONTRACTOR may provide.

**8.22. Venue**

Any action between the Parties arising from this Contract shall be maintained in the courts of Davidson County, Tennessee except in the matters of intellectual property which are governed by the US Federal District Courts.

**8.23. Severability**

Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.

[BALANCE OF PAGE IS INTENTIONALLY LEFT BLANK]

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

**Contract Number** 430826

**Notices and Designation of Agent for Service of Process**

All notices to METRO shall be mailed or hand delivered to:

**PURCHASING AGENT**
**PROCUREMENT DIVISION**
**DEPARTMENT OF FINANCE**
**PO BOX 196300**
**NASHVILLE, TN 37219-6300**

Notices to CONTRACTOR shall be mailed or hand delivered to:

| | |
|---|---|
| CONTRACTOR: | Azteca Systems, LLC |
| Attention: | Brian L. Haslam |
| Address: | 11075 South State, Suite 24, Sandy, UT 84070 |
| Telephone: | 801.523.2751 |
| Fax: | 801.523.3737 |
| E-mail: | bhaslam@cityworks.com |

CONTRACTOR designates the following as the CONTRACTOR's agent for service of process and will waive any objection to service of process if process is served upon this agent:

| | |
|---|---|
| Designated Agent: | Daniel O. Duffin |
| Attention: | Daniel O. Duffin, Azteca Systems, LLC |
| Address: | 11075 S. State, Suite 24, Sandy, UT 84070 |

**[SPACE INTENTIONALLY LEFT BLANK]**

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

**Contract Number** 430826

**Effective Date**

This contract shall not be binding upon the parties until it has been fully electronically approved by the supplier, the authorized representatives of the Metropolitan Government, and filed in the office of the Metropolitan Clerk.

**THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

**APPROVED AS TO PROJECT SCOPE:**

Keith Durbin — GN
Dept. / Agency / Comm. Head or Board Chair. — Dept. Fin.

**APPROVED AS TO COMPLIANCE WITH PROCUREMENT CODE:**

Michelle A. Hernandez Lane — TRT
Purchasing Agent — Purchasing

**APPROVED AS TO AVAILABILITY OF FUNDS:**

Talia Lomax O'Neal — AN — GAM
Director of Finance — OMB — BA

**APPROVED AS TO FORM AND LEGALITY:**

Macy Amy — BC
Metropolitan Attorney — Insurance

**FILED BY THE METROPOLITAN CLERK:**

Metropolitan Clerk — Date

**CONTRACTOR**

Azteca Systems, LLC
Company Name

Brian L. Haslam
Signature of Company's Contracting Officer

Brian L. Haslam
Officer's Name

President
Officer's Title

Cityworks®

Azteca Systems, LLC, 11075 South State, Suite 24 • TEL 801.523.2751 • FAX 801.523.3734
www.cityworks.com

# EXHIBIT A

## CITYWORKS®
## LICENSE AND MAINTENANCE AGREEMENT

This Software License and Maintenance Agreement made by and between Azteca Systems, LLC ("Azteca Systems") a Delaware limited liability company, with a place of business at 11075 South State, Suite 24, Sandy, Utah 84070 USA and the **Metropolitan Government of Nashville-Davidson County, Tennessee**, using certain of Azteca Systems Licensed Products hereinafter referred to as "Licensee." This Agreement is effective immediately upon delivery of Licensed Products (the "Effective Date").

Azteca Systems Products are licensed under the terms and conditions of the Agreement. This agreement, when executed by the licensee named below ("Licensee") and Azteca Systems, LLC (Azteca Systems), as licensor of the Software, Online, Services, and Documentation licensed under the License Agreement, will supersede any previous Agreements including the License Agreement presented in the installation process requiring acceptance by electronic acknowledgement and will constitute a signed License Agreement.

This signed Agreement is attached as Exhibit A and made part of the Contract Purchase Agreement 430826 and includes (i) this License and Maintenance Agreement, (ii) Addendum #1 – Product Licensing, (iii) Addendum #2 – Standard Maintenance and Support and (iv) Addendum #3 – Third Party Contractor Acknowledgment.

This signed Agreement may be executed in duplicate by the Parties. An executed Agreement, modification, amendment, or separate signature page shall constitute a duplicate if it is transmitted through electronic means, such as fax or email, and reflects the signing of the document by any Party. Duplicates are valid and binding even if an original paper document bearing each Party's original signature is not delivered.

### ARTICLE 1—DEFINITIONS

**1.1 Definitions.** The terms used are defined as follows:

a. "Agreement" means this Software License Agreement between Azteca Systems and Licensee, inclusive of all schedules, exhibits, attachments, addenda and other documents incorporated by reference.
b. "Authorization Code(s)" means any key, authorization number, enablement code, login credential, activation code, token, account user name and password, or other mechanism required for use of a Product.
c. "Authorized User" or "User" shall mean: (i) a direct user of the Licensed Products, including but not limited to Licensee's employees; (ii) Licensee's consultants who have agreed to maintain the Licensed Property in confidence and use it only for the benefit of Licensee, or (iii) members of the public gaining access to, and only limited use of, the Licensed Products via the Software's public web portal (if applicable). Other than limited use of the Products through the software's web portal, the public is not considered an authorized user.
d. "Client Data" means the data provided or inputted by or on behalf of Licensee, including personally identifiable information, for use with the Software.
e. "Covered Software" shall mean the particular Cityworks Software, scripts, interfaces and custom code identified in Addendum #1.
f. "Deployment Server License" means a license that, in addition to providing staging server License rights, authorizes Licensee to install and use the Software for deployment in Licensee's internal use.
g. "Testing Server License" means a license that authorizes Licensee to install and use the Software on a server in Licensee's internal use to provide testing License rights prior to deployment.
h. "Documentation" means all user reference documentation that is delivered with the Software.
i. "Internal Use" means use of the Licensed Products by employees of Licensee in Licensee's internal operations but does not include access of the Licensed Products by, or use of the Licensed Products in the provisions of services to, Licensee's clients or customers. Internal Use also includes use of the Licensed Products by contractors of Licensee, including contractors providing outsourcing or hosting services, as long as Licensee assumes full responsibility for the compliance with this Agreement in such use. Use of the Licensed Products (or any part thereof) for the benefit of others, whether by means of a software as a service offering, service bureau application, application service provider, outsourcing or other means of providing service to any third party shall not be considered Internal Use.

j. "Licensed Products" or "Products" shall mean the portion of the Cityworks Software and the Documentation to which Licensee has purchased a License as identified as specified in Addendum #1 attached hereto. Licensed Products shall include any updates or upgrades to the Licensed Products that Azteca Systems may at its discretion deliver to Licensee. Products includes but is not limited to Software, Online Services, and Documentation licensed under the terms of this license Agreement.
k. "Login" means a license that allows Licensee to permit a single authorized named end user to use the Software, Data, and Documentation installed on a server and accessed from a computer device.
l. "Online Services" means any Internet-based system, including applications and associated APIs, hosted by Azteca Systems or its licensors, for storing, managing, publishing, and using Cityworks software and data, and other information.
m. "Ordering Document(s)" means a sales quotation, purchase order, or other document identifying the Products that Licensee orders.
n. "Preview" means any alpha, beta, or prerelease Product.
o. "Sample(s)" means sample code, sample applications, add-ons, or sample extensions of Products.
p. "Server" means each single instance of an operating system, whether physically installed on a computer or within a virtualized environment.
q. "Software" or "Cityworks Software" means all or any portion of Azteca Systems proprietary software technology, excluding data, accessed or downloaded from an Azteca Systems (Cityworks) authorized website or delivered on any media in any format including backups, updates, upgrades, and service packs.
r. "Standard Maintenance" or "Maintenance Addendum" shall mean the Standard Software Maintenance & Support Addendum #2.
s. "Term License" means a license or access provided for use of a Product for a limited time period ("Term") or on a subscription or maintenance basis as specified herein.

## ARTICLE 2—INTELLECTUAL PROPERTY RIGHTS AND RESERVATION OF OWNERSHIP

Products are licensed, not sold. Azteca Systems and its licensors own Products and all copies, which are protected by United States and applicable international laws, treaties, and conventions regarding intellectual property and proprietary rights including trade secrets. This Agreement does not transfer ownership rights of any description in the Software, materials, or services to Licensee or any third party. Licensee agrees to use reasonable means to protect Products from unauthorized use, reproduction, distribution, or publication. Azteca Systems and its third-party licensors reserve all rights not specifically granted in this Agreement including the right to change and improve Products.

## ARTICLE 3—GRANT OF LICENSE

**3.1 Grant of License.** Subject to the terms of this Agreement, Azteca Systems grants to Licensee a personal, nonexclusive, nontransferable license solely to use the Products as set forth in Addendum #1 – Product Licensing (i) for which the applicable license fees have been paid; (ii) for Licensee's own internal use; and (iii) in accordance with this Agreement and the configuration ordered by Licensee or as authorized by Azteca Systems; and (iv) for the applicable Term or until terminated in accordance with Article 5. License types may include, but are not limited to Login, Workgroup, Departmental, ELA (Enterprise License) Licenses. Licensee may allow Third Party Contractors to access and use the licensed Software, provided Licensee and Third Party Contractor agree to and are bound by the terms set forth in Addendum 3. In addition to the Scope of Use in Article 4, Addendum #1 -- Product Licensing which applies to specific Products, Addendum #2 – Standard Maintenance and Support, and Addendum #3 – Third Party Contractor Acknowledgment (if applicable) collectively, are incorporated in this Agreement.

a. *Software. U*se and License for specific Software products are set forth in Addendum 1- Product Licensing Addendum, which is incorporated by reference.
b. *Maintenance.* Maintenance terms are set forth in Section 9.11 below and in Addendum 2, - Standard Maintenance and Support which terms are incorporated by reference.
c. *Third Party Contractor.* Terms of use for Third Party Contractor software usage (if applicable) are set forth in Addendum #3, which is incorporated by reference.

**3.2 Preview Release Licenses.** Products acquired under an evaluation license or under a Beta program are intended for evaluation and testing purposes only and not for commercial use. Any such use is at Licensee's own risk, and the

Products do not qualify for Azteca or distributor maintenance.

**3.3 Special Use Programs.** If Licensee acquires Products under a special program for noncommercial, nonprofit, educational, or other limited-use license, Licensee's use of the Products is subject to the terms set forth in the applicable enrollment form or as described on Azteca's website in addition to the non-conflicting terms of this Agreement. All such program terms are incorporated herein by reference.

**3.4 Delivery**. Unless otherwise requested by Licensee, Azteca Systems shall provide an electronic link to make available to Licensee the Licensed Property by electronic download and a license key to activate the Licensed Property.

## ARTICLE 4—SCOPE OF USE

### 4.1 Permitted Uses

a. For Products delivered to Licensee, Licensee may:

1. Install and store Products on electronic storage device(s);
2. Make archival copies and routine computer backups;
3. Install and use a newer version of Software concurrently with the version to be replaced during a reasonable transition period not to exceed 6 months, provided that the deployment of either version does not exceed the Licensee's licensed quantity; thereafter, Licensee shall not use more Software in the aggregate than Licensee's total licensed quantity; and
4. Move the Software in the licensed configuration to a replacement Server.

b. Licensee may use, copy, or prepare derivative works of Documentation supplied in digital format and thereafter reproduce, display, and redistribute the customized documentation only for Licensee's own internal use. Portions of Documentation supplied in digital format merged with other software and printed or digital documentation are subject to this License Agreement. Licensee shall include the following copyright attribution notice acknowledging the proprietary rights of Azteca and its licensors: "Portions of this document include intellectual property of Azteca and its licensors and are used herein under license. Copyright © [*Licensee will insert the actual copyright date(s) from the source materials*] Azteca Systems, LLC. and its licensors. All rights reserved."

c. *Consultant or Contractor Access.* Subject to Section 3.1 and Addendum #3, Azteca Systems grants Licensee the right to permit Licensee's Third Party Consultants or Contractors to use the Products exclusively and solely for Licensee's benefit. Licensee must comply with terms and provisions of Addendum #3 and provide a copy to Azteca. Licensee shall be solely responsible for compliance by Third Party Consultants and Contractors with this License Agreement and shall ensure that the Third Party Consultant or Contractor discontinues Product use upon completion of work for Licensee. Access to or use of Products by Third Party Consultants or Contractors not exclusively for Licensee's benefit is prohibited.

**4.2 Uses Not Permitted.** Except to the extent that applicable law prohibits or overrides these restrictions, or as provided herein, Licensee shall not:

a. Sell, rent, lease, sublicense, lend, assign, or time-share Products;
b. Permit persons other than Authorized Users to access or use the Licensed Products (or any part thereof);
c. Act as a service bureau or Commercial ASP;
d. Use Software, Data, or Documentation for a site or service and operate the site or service for profit or generate revenue through direct or indirect methods (e.g., advertising or by charging for access to the site or service);
e. Redistribute Software, Data, or Online Services to third parties, in whole or in part, including, but not limited to, extensions, components, or APIs;
f. Redistribute Authorization Codes;
g. Reverse engineer, decompile, or disassemble Products;
h. Make any attempt to circumvent the technological measure(s) that controls access to or use of

Products;

i. Upload or transmit content or otherwise use Products in violation of third-party rights, including intellectual property rights, privacy rights, nondiscrimination laws, or any other applicable law or government regulation;

j. Remove or obscure any Azteca Systems (or its licensors') patent, copyright, trademark, proprietary rights notices, and/or legends contained in or affixed to any Product, Product output, metadata file, or online and/or hard-copy attribution page of any Data or Documentation delivered hereunder;

k. Separate from the licensed use of APIs, Licensee may not unbundle or independently use individual or component parts of the Products, Software, or Online Services;

l. Unbundle or independently use the individual or component parts of Software or Online Services;

m. Incorporate any portion of the Software into a product or service that competes with the Software;

n. Publish the results of benchmark tests run on Software without the prior written permission of Azteca Systems; or

o. Use, incorporate, modify, distribute, provide access to, or combine any computer code provided with the Software in a manner that would subject such code or any part of the Software to open source license terms, which includes any license terms that require computer code to be (i) disclosed in source code form to third parties, (ii) licensed to third parties for the purpose of making derivative works, or (iii) redistributable to third parties at no charge.

**ARTICLE 5—TERM AND TERMINATION**

5.1. This License Agreement is effective upon approval by all required parties and filed in the Metropolitan Clerk's Office. Annual period dates and fees are set forth in Addendum 1. The Contract Term will end sixty (60) months from the date of filing with the Metropolitan Clerk's Office, unless otherwise terminated as set forth herein. In no event shall the term of this Contract exceed sixty (60) months from the date of filing with the Metropolitan Clerk's Office.

5.2. Either party may terminate this License Agreement or any Product license for a material breach that is not cured within thirty (30) days of written notice to the breaching party, except that termination is immediate for a material breach that is impossible to cure.

5.3. Termination for Convenience: Either party may terminate this Agreement by giving the other party thirty (30) days' written notice prior to the end of the current Term Maintenance Period.

5.4. In the event that either funding from Licensee or other sources is withdrawn, reduced, or limited, or the authority of Licensee to perform any of its duties is withdrawn, reduced, or limited in any way after the Effective Date of this Agreement and prior to normal completion, the parties shall have the authority to exercise the Termination for Convenience option to terminate this Agreement in whole or in part. If a party to this Agreement chooses to terminate for convenience that party may do so by thirty (30) days' written notice to the other party.

5.5. Upon termination of the License and Maintenance Agreement, all Product licenses granted hereunder terminate as well. Upon termination of a License or the License and Maintenance Agreement, Licensee will (i) stop accessing and using affected Product(s); (ii) clear any client-side data cache derived from Online Services; and (iii) uninstall, remove, and destroy all copies of affected Product(s) in Licensee's possession or control, including any modified or merged portions thereof, in any form, and execute and deliver evidence of such actions to Azteca Systems.

5.6. If this Agreement is terminated for convenience, the Licensee is only liable for payment required by the terms of this Agreement for license, maintenance and support services rendered or products and software received and accepted prior to the effective date of termination.

5.7. If this Agreement is terminated under section 5.3 or 5.4 above, Licensee shall then return to Azteca Systems all of the Software, related modules, related updates, and any whole or partial copies, codes, modifications, and merged portions in any form. Azteca will then for no additional charge to Licensee and at Licensee's option either grant a license to the Licensee, for a period of one (1) year, which will allow Licensee to retain the ability to access records and data contained in the Software or allow Licensee to create digital copies of all files needed by the Licensee for the same period. If Licensee needs to retain access to records or data for a period longer than one (1) year, in order to transfer data to another system, Azteca will consider reasonable requests to extend beyond one (1) year.

5.8. The parties hereby agree that all provisions which operate to protect the intellectual rights of Azteca Systems shall remain in force should breach or termination of any kind occur.

## ARTICLE 6—LIMITED WARRANTIES AND DISCLAIMERS

**6.1 Limited Warranties.** Except as otherwise provided in this Article 6, Azteca Systems warrants for a period of ninety (90) days from the date Azteca Systems issues the Authorization Code enabling use of Software and that the unmodified Software will substantially conform to the published Documentation under normal use and service.

**6.2 Special Disclaimer.** CONTENT, DATA, SAMPLES, NEW VERSIONS, HOT FIXES, PATCHES, SERVICE PACKS, UPDATES, UPGRADES, AND ONLINE SERVICES PROVIDED ON A NO-FEE BASIS, AND EVALUATION, TEST AND BETA SOFTWARE ARE DELIVERED "AS IS" WITHOUT WARRANTY OF ANY KIND.

**6.3 Internet Disclaimer.** THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE INTERNET IS A NETWORK OF PRIVATE AND PUBLIC NETWORKS AND THAT (i) THE INTERNET IS NOT A SECURE INFRASTRUCTURE, (ii) THE PARTIES HAVE NO CONTROL OVER THE INTERNET, AND (iii) NONE OF THE PARTIES SHALL BE LIABLE FOR DAMAGES UNDER ANY THEORY OF LAW RELATED TO THE PERFORMANCE OR DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF ONLINE SERVICES.

**6.4 General Disclaimer.** EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, AZTECA SYSTEMS DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. AZTECA SYSTEMS DOES NOT WARRANT THAT PRODUCTS, MAINTENANCE OR ANY TECHNICAL SUPPORT SERVICES PROVIDED HEREIN WILL MEET LICENSEE'S NEEDS; THAT LICENSEE'S OPERATION OF THE SAME WILL BE UNINTERRUPTED, ERROR FREE, FAULT-TOLERANT, OR FAIL-SAFE; OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED. PRODUCTS ARE NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS THAT MAY LEAD TO DEATH, PERSONAL INJURY, OR PHYSICAL PROPERTY/ENVIRONMENTAL DAMAGE. LICENSEE SHOULD NOT FOLLOW ANY SUGGESTIONS OR INSTRUCTIONS THAT APPEAR TO BE HAZARDOUS, UNSAFE, OR ILLEGAL. ANY SUCH USE SHALL BE AT LICENSEE'S OWN RISK AND COST.

**6.5 Exclusive Remedy.** Licensee's exclusive remedy and Azteca Systems' entire liability for breach of the limited warranties set forth in this Article 6 shall be limited, at Azteca Systems' sole discretion, to (i) replacement of any defective media; (ii) repair, correction, or a workaround for Software or Online Services subject to the Azteca Systems Maintenance Services and Support Addendum; or (iii) return of the license fees paid by Licensee for the current period, prorated for the current period, for Software or Online Services that do not meet Azteca Systems limited warranty, provided that Licensee uninstalls, removes, and destroys all copies of Software or Documentation; ceases using the Software or Online Services; and executes and delivers evidence of such actions to Azteca Systems.

**6.6** If the performance of any obligation under this Agreement is prevented, restricted, or interfered with by reason of fire, flood, earthquake, explosion, or other casualty or accident; strikes or labor disputes; inability to procure delivery of parts, supplies, services, or power; war, threat of actual terrorist act, cyberattack, or other violence; any law order, proclamation, regulation, ordinance, or demand; or any condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, will be provided a temporary extension for a period of time as may be reasonably necessary to allow for such delay, prevention interference, or restriction.

## ARTICLE 7—LIMITATION OF LIABILITY

**7.1 Disclaimer of Certain Types of Liability.** AZTECA SYSTEMS, ITS AUTHORIZED DISTRIBUTOR (IF ANY), AND ITS LICENSORS SHALL NOT BE LIABLE TO LICENSEE FOR COSTS OF PROCUREMENT OF

SUBSTITUTE GOODS OR SERVICES; LOST PROFITS, LOST SALES, OR BUSINESS EXPENDITURES; INVESTMENTS; BUSINESS COMMITMENTS; LOSS OF ANY GOODWILL; OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS LICENSE AND MAINTENANCE AGREEMENT OR USE OF PRODUCTS, HOWEVER CAUSED ON ANY THEORY OF LIABILITY, WHETHER OR NOT AZTECA SYSTEMS OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**7.2 General Limitation of Liability.** EXCEPT AS PROVIDED IN ARTICLE 8—INFRINGEMENT INDEMNITY, THE TOTAL CUMULATIVE LIABILITY OF AZTECA SYSTEMS AND ITS AUTHORIZED DISTRIBUTOR HEREUNDER, FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, MISREPRESENTATION, OR OTHERWISE, SHALL NOT EXCEED THE FEES ACTUALLY PAID BY LICENSEE DURING THE CURRENT MAINTENANCE AND SUPPORT PERIOD, FOR THE PRODUCTS THAT GIVE RISE TO THE CAUSE OF ACTION.

**7.3 Applicability of Disclaimers and Limitations.** Licensee agrees that the limitations of liability and disclaimers set forth in this License Agreement will apply regardless of whether Licensee has accepted Products, or any other product or service delivered by Azteca Systems. The parties agree that Azteca Systems has set its fees and entered into this License Agreement in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties, and that the same form an essential basis of the bargain between the parties. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

THE FOREGOING WARRANTIES, LIMITATIONS, AND EXCLUSIONS MAY NOT BE VALID IN SOME JURISDICTIONS AND APPLY ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW IN LICENSEE'S JURISDICTION. LICENSEE MAY HAVE ADDITIONAL RIGHTS UNDER LAW THAT MAY NOT BE WAIVED OR DISCLAIMED. AZTECA SYSTEMS DOES NOT SEEK TO LIMIT LICENSEE'S WARRANTY OR REMEDIES TO ANY EXTENT NOT PERMITTED BY LAW.

## ARTICLE 8—INFRINGEMENT INDEMNITY

**8.1** Azteca Systems shall defend, indemnify as described below, and hold Licensee harmless from and against any loss, liability, cost, or expense, including reasonable attorneys' fees, arising out any claims, actions, or demands by a third party legally alleging that Licensee's licensed use of Software or Online Services infringe a US patent, copyright, or trademark, provided:

a. Licensee promptly notifies Azteca Systems in writing of the claim;
b. Licensee provides documents describing the allegations of infringement;
c. Azteca Systems has sole control of the defense of any action and negotiation related to the defense or settlement of any claim, provided, however that the Licensee shall have the right to participate at Licensee's expense in any such settlement and compromise negotiations that would require any action or restraint of action by the Licensee; and
d. Licensee reasonably cooperates in the defense of the claim at Azteca Systems' request and expense.

**8.2** If Software or Online Services are found to infringe a US patent, copyright, or trademark, Azteca Systems, at its own expense, may either (i) obtain rights for Licensee to continue using the Software or Online Services or (ii) modify the allegedly infringing elements of Software or Online Services while maintaining substantially similar functionality. If neither alternative is commercially reasonable, the license shall terminate, and Licensee shall cease accessing infringing Online Services and shall uninstall and return to Azteca Systems any infringing item(s). Azteca Systems entire liability shall then be to indemnify Licensee pursuant to Section 8.1and refund the unused portion of fees paid, prorated for the current maintenance and support period.

**8.3** Azteca Systems shall have no obligation to defend Licensee or to pay any resultant costs, damages, or attorneys' fees for any claims or demands alleging direct or contributory infringement to the extent arising out of (i) the combination or integration of Software or Online Services with a product, process, or system not supplied by Azteca Systems or specified by Azteca Systems in its Documentation; (ii) material alteration of Software or Online Services by anyone other than Azteca Systems or its subcontractors; or (iii) use of Software or Online Services after modifications have been provided by Azteca Systems for avoiding infringement or use after a return is ordered by

Azteca Systems under Section 8.2.

**8.4** THE FOREGOING STATES THE ENTIRE OBLIGATION OF AZTECA SYSTEMS WITH RESPECT TO INFRINGEMENT OR ALLEGATION OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

## ARTICLE 9—GENERAL PROVISIONS

**9.1 Future Updates.** New or updated Products and subscription renewals will be licensed under the then-current Azteca Systems license terms and conditions included with the deliverable Products.

**9.2 Export Control Regulations.** Licensee expressly acknowledges and agrees that Licensee shall not export, re-export, import, transfer, or release Products, in whole or in part, to (i) any US embargoed country; (ii) any person on the US Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the US Commerce Department's Denied Persons List, Entity List, or Unverified List; or (iv) any person or entity or into any country where such export, re-export, or import violates any US, local, or other applicable import/export control laws or regulations including, but not limited to, the terms of any import/export license or license exemption and any amendments and supplemental additions to those import/export laws as they may occur from time to time.

**9.3 Taxes and Fees, Shipping Charges.** License fees quoted to Licensee are exclusive of any and all taxes or fees, including, but not limited to, sales tax, use tax, value-added tax (VAT), customs, duties, or tariffs, and shipping and handling charges.

**9.4 No Implied Waivers.** The failure of either party to enforce any provision of this License Agreement shall not be deemed a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

**9.5 Severability.** The parties agree that if any provision of this License Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make the intent of the language enforceable.

**9.6 Successor and Assigns.** Licensee shall not assign, sublicense, or transfer Licensee's rights or delegate Licensee's obligations under this License Agreement without Azteca Systems' prior written consent, and any attempt to do so without consent shall be void. This License Agreement shall be binding on the respective successors and assigns of the parties to this License Agreement. Notwithstanding, a government contractor under contract to the government to deliver Products may assign this License Agreement and Products acquired for delivery to its government customer upon written notice to Azteca Systems, provided the government customer assents to the terms of this License Agreement.

**9.7 Survival of Terms.** The provisions of Articles 2, 5, 6, 7, 8, and 9 of this License Agreement, and the provisions of section 4.1 of Addendum 2, shall survive the expiration or termination of this License and Maintenance Agreement.

**9.8 Equitable Relief.** Licensee agrees that any breach of this License Agreement by Licensee may cause irreparable damage and that, in the event of such breach, in addition to any and all remedies at law, Azteca Systems shall have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction without the requirement of posting a bond or proving injury as a condition for relief.

**9.9 US Government Licensee.** The Products are commercial items, developed at private expense, provided to Licensee under this License Agreement. If Licensee is a US government entity or US government contractor, Azteca Systems licenses Products to Licensee in accordance with this License Agreement under FAR Subparts 12.211/12.212 or DFARS Subpart 227.7202. Azteca Systems Data and Online Services are licensed under the same subpart 227.7202 policy as commercial computer software for acquisitions made under DFARS. The commercial license rights in this License Agreement strictly govern Licensee's use, reproduction, or disclosure of Products. Azteca Systems Software source code is unpublished, and all rights to Products are reserved by Azteca Systems and its licensors. Licensee may transfer Software to any licensed government procuring agency facility to which computer(s) on which Software is installed are transferred. If any court, arbitrator, or board holds that Licensee has greater rights to any portion of Products under applicable public procurement law, such rights shall extend only to the portions affected.

**9.10 Governing Law, Disputes, and Arbitration.** This License Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee without reference to conflict of laws principles, except that US federal law shall govern in matters of intellectual property. Except as provided in Section 9.8, any dispute arising out of or relating to this License Agreement or the breach thereof shall be resolved in the following order:

- *Consultation and negotiation in good faith and a spirit of mutual cooperation;*
- If the matter cannot be settled through negotiation and consultation in good faith then it shall be finally settled by in accordance with the laws of the state of Tennessee as set forth above except that US federal law shall govern in matters of intellectual property.

**9.11 Maintenance.** Maintenance for qualifying Software consists of updates and other benefits, such as access to technical support, are provided during the Term of Use. Maintenance is specified as set forth in Addendum #2.

**9.12 Feedback.** Azteca Systems may freely use any feedback, suggestions, or requests for Product improvements that Licensee provides to Azteca Systems. Regardless of the source of any feedback or suggestions, any improvements to Cityworks Software or Products, and any related intellectual property, are owned by Azteca Systems.

**9.13 Patents.** Licensee may not seek, and may not permit any other user to seek, a patent or similar right worldwide that is based on or incorporates any Azteca Systems technology or services. This express prohibition on patenting shall not apply to Licensee's software and technology except to the extent that Azteca Systems technology or services, or any portion thereof, are a part of any claim or preferred embodiment in a patent application or a similar application.

**9.14 Entire Agreement.** This License Agreement, including its incorporated documents, addendums, and exhibits and which is attached to the Contract Purchase Agreement 430826 constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous license agreements, understandings, and arrangements between the parties relating to such subject matter. Additional or conflicting terms set forth in any purchase orders, invoices, or other standard form documents exchanged during the ordering process, other than product descriptions, quantities, pricing, and delivery instructions, are void and of no effect. Any modification(s) or amendment(s) to this License Agreement must be in writing and signed by each party or as otherwise provided in Addendum #1.

IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be executed and made effective by their respective authorized representatives.

| **AZTECA SYSTEMS, LLC** | **METRO GOVERNMENT OF NASHVILLE-DAVIDSON COUNTY, TN** – (LICENSEE) |
|---|---|
| By: _____ | By: _____ |
| Name: Brian L. Haslam | Name: _____ |
| Title: President - CEO | Title: _____ |
| Date: ____/____/____ | Date: ____/____/____ |

# ADDENDUM #1

## PRODUCT LICENSING

1. **Licensed Software:**

Server AMS Premium Cityworks Enterprise License Agreement (ELA), Includes Unlimited Quantities of the Identified Products for all departments within the City of Nashville, TN (except for Metro Water Services and Metropolitan Nashville Airport Authority):
Office
Tablet
Respond
Mobile Native Apps (for iOS/Android)

--Includes the following Add-ons:
Storeroom
Equipment Checkout
Contracts
Cityworks for Excel
Cityworks Analytics for AMS
eURL (Enterprise URL)
Operational Insights
Workload
Web Hooks
Performance Budgeting
Local Government Templates (LGT)
Use of Cityworks AMS Application Programming Interfaces (APIs) with commercially available Cityworks-centric applications that are licensed and maintained by authorized Cityworks partners
Use of Cityworks AMS Application Programming Interfaces (APIs) with third party system integrations

Server PLL Premium Enterprise License Agreement (ELA), Includes Unlimited Quantities of the Identified Products for all departments within the City of Nashville, TN (except for Metropolitan Nashville Airport Authority):
Office
Tablet
Respond
Mobile Native Apps (for iOS/Android)

--Includes the following Add-ons:
eURL (Enterprise URL)
Public Access for PLL
Cityworks Analytics for PLL
Use of Cityworks PLL Application Programming Interfaces (APIs) with commercially available Cityworks-centric applications that are licensed and maintained by authorized Cityworks partners
Use of Cityworks PLL Application Programming Interfaces (APIs) with third party system integrations

*Annual fee herein is based on a 650,001 – 700,000 population range*

*Additional Software Products & Licenses: Additional Software Products & licenses may be added to this License Agreement with either an acknowledgement of an official Cityworks quote signed by Licensee and additional fees, if necessary or applicable being paid, or receipt of Purchase Order from Licensee in response to an official Cityworks quote and additional fees, if applicable being paid.*

2. **Notices & Licensee Information: Until or unless otherwise, modified, all notices relevant to this agreement shall be sent to the following address:**

| | |
|---|---|
| **Azteca Systems, LLC**<br>11075 South State, Suite 24<br>Sandy, Utah 84070 | **Metropolitan Government of Nashville & Davidson County**<br>700 Second Avenue S<br>Nashville, TN 37219 |
| | Attn: Keith Durbin, CIO |
| | E-mail: keith.durbin@nashville.gov |
| | Phone: 615.862.6220 |

3. **Delivery Date/Effective Date of Software**

| *MM/DD/YYYY* |
|---|
| ***10/01/2018*** |

4. **Schedule of Payments and Fees under License and Maintenance Agreement**

| Support Period | Date<br>From/To (mm/dd/yyyy) | Amount |
|---|---|---|
| **Period 1** | **10/01/2018 – 09/30/2019** | **$296,000.00**<br>**$108,000.00*** |
| **Period 2** | **10/01/2019 – 09/30/2020** | **$336,000.00** |
| **Period 3** | **10/01/2020 – 09/30/2021** | **$400,000.00** |
| **Period 4** | **10/01/2021 – 07/31/2022** | **$420,000.00** |
| **Period 5** | **10/01/2022 – 07/31/2023** | **$441,000.00** |

* $108,000 are for services – 40 hours of on-site services and 100 of remote.

5. **Additional**

Updates to the above licensed software means a subsequent release of the program which Azteca generally makes available to its supported customers as part of the annual maintenance plan for which fees have been paid.

Occasionally, Azteca changes the name of its licensed software as part of its ongoing process to improve and increase the functionality of the software. In the event the software licensed or listed above changes in name, and/or improvements are made, Azteca will provide software with functionality that is similar to or with substantially the same or greater functionality of the originally licensed software, provided all current license fees have been paid.

Updates may not always include any release, option or future program that Azteca licenses separately. Updates are provided when available (as determined by Azteca). Azteca is under no obligation to develop any future programs or functionality. Any updates made available will be delivered to you or made available to you for download. You shall be responsible for copying, downloading and installing the updates.

# ADDENDUM #2
# STANDARD MAINTENANCE AND SUPPORT

Standard Maintenance and Support Addendum provisions are between the Licensee and Azteca, Systems, LLC. Maintenance and Support are provided subject to the terms and conditions of the signed License Agreement and which is incorporated by reference.

1. **MAINTENANCE & SUPPORT**: Azteca Systems will provide maintenance and support services to Licensee for qualifying Products during the applicable Term for such Products provided the applicable license fees have been paid for the times and periods and amounts specified in Addendum #1. Maintenance and Support Services consist of the following benefits: Technical support, new version software, service packs, software upgrades, and software updates.

1.1. Azteca Systems will ensure upward compatibility for the Covered Software applications within a reasonable timeframe for minor Esri® ArcGIS and Cityworks supported database revisions. Azteca Systems will not ensure upward compatibility for Covered Software Applications when there are major Esri ArcGIS revisions (for example, from rev 10.x to rev 11.x), however Azteca Systems will make all reasonable efforts to provide upward compatibility.

1.2. Azteca Systems shall, without additional charge (except as allowed for in paragraph 3.4), during the term of this Agreement provide the following:

(a) Software Updates. Software Updates includes Upgrades and service packs which are a collection of files that enhance or correct the Covered Software, and which will be available for Licensee to download during the Maintenance Term/Period. Updates and Upgrades may also include new versions;

(b) Provide Telephone Support, Email Support, Web Support, during normal business hours, 8 AM to 5 PM Mountain Time, Monday through Friday (excepting Holidays) and after hour emergency support line, and other benefits deemed appropriate by Azteca Systems (as set forth in Section 2 below); and

(c) Implement and maintain a means of secure, remote direct network access (VPN, Web-access, etc.) to the Licensee's systems in order to perform thorough remote diagnostics.

1.3 The following items, among others, however, are specifically excluded as support services under this section of this Maintenance and Support:

(a) Support for applying or installing upgrades and service packs;

(b) Assistance with questions related to third party software, computer hardware, networking, and other similar items that are not provided by Azteca;

(c) Assistance with computer operating system questions not directly pertinent to the Covered Software or Program Modifications;

(d) Licensee Data debugging and/or correcting;

(e) Services necessitated as a result of any cause other than authorized ordinary and proper use by the Licensee of the Covered Software, including but not limited to neglect, abuse, unauthorized modifications and/or unauthorized updates;

(f) Consulting regarding customizations created to function with the Covered Software unless the customization is identified and listed as Covered Software in Addendum 1;

(g) Assistance with applications which are not part of a standard life cycle, such as preview, beta, or candidate releases; and

(h) Questions such as configuration, implementation and walk-throughs.

1.4 Support Periods are renewable unless terminated as provided in Section 4 below. The Maintenance Services consists of software and documentation updates and access to technical support via telephone, email, web-based (www.MyCityworks.com) and after hours support as set forth in Section 1 of this Addendum.

1.5. Technical support provided pursuant these maintenance provisions shall be performed in a professional and workmanlike manner. Azteca Systems will use commercially reasonable efforts to provide corrections to a technical issue or provide a workaround, but Azteca Systems cannot guarantee that all technical issues can be fixed or resolved.

1.6. **Authorized Callers**. Licensee may designate a limited number of authorized callers per software product listed in Addendum 1. Licensee may replace Authorized Callers at any time by notifying Azteca Systems Support services. Authorized callers may be designated in this Addendum #2 or by email. Azteca may limit the total number of authorized callers as may be reasonably necessary and may request an updated list of authorized callers.

1.7. **Cityworks Online Support and Customer Portal**. Azteca has created a self-help support website center for Authorized Callers to submit technical issues, chat with technical specialists, track technical support incidents through the 'MyCityworks' portal, and view technical articles, updated product documentation, blogs, links to forums, and technology announcements. The support and care website can be found at http://www.mycityworks.com.

## 2. PROCEDURES FOR ACCESSING SUPPORT:

2.1. All problem categories from routine, non-critical and critical that occur during normal business hours shall procedurally occur as follows: 1) Licensee's system administration staff as first line of support, and then 2) Azteca Systems staff as the second line of support. Azteca Systems will make all reasonable efforts to acknowledge all requests for support during normal business hours within 4 hours.

2.2. Prior to calling Azteca Systems for support services, the Licensee will first attempt to isolate any problems that occur within the Licensee's System. The Licensee will try to reduce the problem down to a specific software or system component. If it is determined that the problem is The Cityworks Software component, Licensee will first try and resolve the problem without Azteca Systems' involvement. If Licensee cannot resolve the problem or isolate the problem, Licensee may contact Azteca Systems via telephone, chat, or self-service portal. In each case, Cityworks technical support will log the information and provide, an answer to the question, a resolution to the problem, or submit a verified bug to the development group. Any support request that is not quickly resolved will be assigned to a technical support representative. Phone calls and chat requests are accepted during normal business hours as outlined on the Contact Support page of MyCityworks.com. Voicemails and requests submitted via the self-service portal outside of the posted business hours will be responded to on a first come, first served basis the next business day.

2.3. For critical problems that occur outside of Azteca Systems' normal business hours (8 AM to 5 PM, Mountain Time) and cannot be isolated and resolved by the Licensee, Azteca Systems will provide an after-hours phone number or pager number that will forward the call to the currently assigned Azteca Systems support representative. Azteca Systems will make all reasonable efforts to acknowledge and respond to the request for support for critical problems that occur outside of normal business hours within 4 hours of receipt of the call from a designated and authorized Licensee representative. Critical problems are defined as problems that cause several users to be unable to perform their duties. For routine and non-critical problems Licensee will submit support requests during normal business hours as outline in 2.2 above.

2.4. After a Technical Support Incident is logged, Azteca Systems will use commercially reasonable efforts to provide corrections to a technical issue or provide a work around. While it is Azteca's goal to provide an acceptable solution to technical issues, Azteca cannot guarantee that all technical issues can be fixed or resolved.

2.5. Azteca will use all reasonable efforts to utilize remote support-type services. However, in the event Licensee and Azteca Systems agree it becomes necessary for Azteca Systems to be on-site to provide support for the Covered Software, the parties by mutual negotiation, shall develop a separate agreement that will govern the terms and conditions for any on-site work or services.

## 3. CHARGES/FEES

3.1. License, Maintenance and Support Services herein are included in the payment of annual fees as set forth in Addendum #1, and shall be paid by Licensee. The annual fee for each twelve (12) month period is set forth in Addendum #1, and shall be paid prior to the start for each License and Maintenance Period unless otherwise specified. The annual fee for successive Terms/Periods (twelve-month periods) commencing upon the anniversary of the first maintenance period, shall become due prior to the end of the preceding paid-up Maintenance Period.

3.2. Upon sixty (60) days written notice, the fee for the License and Maintenance Periods listed in Addendum 1 subsequent to year five (5) of the Maintenance Period, may be adjusted by Azteca Systems to reflect increases in costs of providing the services; provided, however, that the fee shall not increase by more than the CPI from the previous annual fee. Azteca Systems will notify Licensee of the new pricing no later than ninety (90) days prior to the annual renewal date of the year preceding the year for which such adjusted pricing applies.

3.3. **Maintenance Expiration.** Azteca Systems will send Licensee a notice of expiration approximately sixty (60) days before the Maintenance term expires. If Azteca Systems does not receive a purchase order prior to the expiration date, Azteca will send the notification to Licensee upon expiration of the Maintenance term. Azteca Systems will continue to provide technical support for an additional thirty (30) days, but Licensee will no longer receive Software updates released after the Maintenance term's expiration. If Licensee does not reinstate Maintenance within thirty (30) days of the expiration date, Licensee will no longer receive technical support. All other Maintenance benefits and Support services will end with the expiration of the Maintenance term.

3.4. **Reinstatement Fee for Lapsed Maintenance**. Azteca Systems will reinstate Maintenance if Licensee sends a purchase order or payment within thirty (30) days of the expiration date. If Licensee does not renew Maintenance within thirty (30) days of the expiration date but at a later date wants to reinstate Maintenance, Maintenance fees will include the Maintenance fees that Licensee would have paid since the expiration date.

## 4. MISCELLANEOUS

4.1. **Data Confidentiality Statement**: Azteca Systems will take reasonable measures to ensure that any Licensee data and/or confidential information provided to Azteca Systems is not inappropriately accessed or distributed to any third-party. Data provided to Azteca Systems by the Licensee may be loaded onto Azteca Systems servers or employee computers for the purpose of testing The Cityworks Software, database structure, or database values, and related Esri® software to resolve database or software performance issues, software enhancements and software defects. At no time will the data be distributed to individuals or organizations who are not Azteca Systems employees without first receiving written approval from Licensee. If requested by the Licensee, and once the testing has been completed, Azteca Systems will delete all data provided by the Licensee.

4.2. **No Implied Waivers**: No failure or delay by Azteca Systems or Licensee in enforcing any right or remedy under this Agreement shall be construed as a waiver of any future or other exercise of such right or remedy by Azteca Systems.

## ADDENDUM #3

## THIRD PARTY CONSULTANT/CONTRACTOR ACKNOWLEDGMENT

If Licensee engages any Third Party Contractor and desires to grant access to or permission to use the licensed software, the access may be granted subject to the following terms conditions and provisions:

1. Access and use of the Licensed Products by any third party is solely for Licensee's benefit;

2. The Third Party Contractor (or, if applicable, its employee) shall be considered, as applicable, the Authorized User for purposes of the applicable license type, and all use by such contractor shall be in accordance with the terms and conditions of the License and Maintenance Agreement;

3. Before accessing the Licensed Products, the Third Party Contractor agrees in writing that (a) the software shall be used solely in accordance with the terms of this Agreement and solely for Licensee's benefit and (b) said contractor shall be liable to Azteca Systems for any breach by it of this Agreement;

4. Licensee hereby agrees and acknowledges that Licensee will be liable for any and all actions or omissions of the Third Party Contractor with respect to the use of the Licensed Products, as if such actions or omissions were the Licensee's;

5. Upon expiration or termination of this License Agreement, the rights of usage to any Third Party Contractor shall immediately terminate;

6. Use of the Software by such Third Party Contractors on Licensee's behalf will be governed by the terms of this Agreement, and will require that Licensee purchase the appropriate license for each user utilized by such contractor;

7. Any breach of this Agreement by any Third Party Contractor(s) will be deemed to be a breach by Licensee;

8. Licensee will ensure that Third Party Contractor agrees to comply with and does comply with the terms of this Agreement on the same basis as the terms apply to Licensee; and

9. Any Third Party Contractor must sign a copy of this Addendum acknowledging that it has a copy of the License Agreement and agrees to the terms herein, further Licensee shall provide a signed copy of this Addendum for every Third Party contractor to which it has granted permission to access and/or use the licensed software;

The rights granted under Third-Party Contractor Addendum, do not modify the license or increase the number of licenses granted under this Agreement. Third-Party Contractor acknowledges acceptance by signing below, and providing a copy to Azteca Systems at contracts@cityworks.com.

_____
Third Party Contractor Name (Print)

By: _____
Authorized Signature

Date: _____

## SECTION A-1

### General Terms and Conditions

1 **Safeguards.** In addition to the controls specified in the exhibits to this Agreement, Contractor agrees to implement administrative, physical, and technical safeguards to protect the availability, confidentiality and integrity of Metropolitan Government of Nashville and Davison County (Metro Government) Information, information technology assets and services as it pertains to the actual services being performed by Contractor. All such safeguards shall be in accordance with industry-wide best security practices and commensurate with the importance of the information being protected, but in no event less protective than those safeguards that Contractor uses to protect its own information or information of similar importance, or is required by applicable federal or state law.

2 **Connection of Systems or Devices to the Metro Government Network.** Contractor shall not place any systems or devices on the Metro Government Network without the prior written permission of the Director of ITS, designee, or the designated Metro Government contact for this Agreement.

3 **Access Removal.** If granted access to Metro Government Network or systems, Contractor and its Agents shall only access those systems, applications or information which they are expressly authorized by Metro Government to access, even if the technical controls in the system or application do not prevent Contractor or its Agent from accessing those information or functions outside of Metro Government's authorization. Contractor shall impose reasonable sanctions against any Agent who attempts to bypass security controls. Notwithstanding anything to the contrary in the Purchasing Agreement or other agreement between Metro Government and Contractor, Metro Government at its sole discretion, may refuse granting access right to Metro Government Network or Sensitive Information to any Agent of Contractor, and may at any time remove access rights (whether physical premise access or system access) from Contractor or any Agents, without prior notice or liability to Contractor, if Metro Government reasonably suspects a security violation by Contractor or such Agent or otherwise deems such action appropriate to protect Metro Government Infrastructure, Metro Government Network or Metro Government Information.

4 **Subcontracting/Outsourcing.**

4.1 **Prior Approval.** Without Metro Government's prior written consent, Contractor may not subcontract with a third party to perform any of its obligations to Metro Government which involves access to Metro Government Information or connection to Metro Government Network. Nor shall Contractor outsource any Contractor infrastructure (physical or virtual) which Stores Sensitive Information without such consent. To obtain Metro Government's consent, Contractor shall contact the Metro Government ITS department. In addition, Metro Government may withdraw any prior consent if Metro Government reasonably suspect a violation by the subcontractor or outsource provider of this Agreement, or otherwise deems such withdraw necessary or appropriate to protect Metro Government Network, Metro Government Infrastructure or Metro Government Information.

4.2 **Subcontractor Confidentiality.** Contractor Agents are bound by the same confidentiality obligations set forth in this Agreement. Contractor or its Agent may not transfer, provide access to or otherwise make available Metro Government Information to any individual or entity outside of the United States (even within its own organization) without the prior written consent of Metro Government. To obtain such consent, Contractor shall send Metro Government a notice detailing the type of information to be disclosed, the purpose of the disclosure, the recipient's identification and location, and other information required by Metro Government.

4.3 **Contractor Responsibility.** Prior to subcontracting or outsourcing any Contractor's obligations to Metro Government, Contractor shall enter into a binding agreement with its subcontractor or outsource service provider ("Third Party Agreement") which (a) prohibits such third party to further subcontract any of its obligations, (b) contains provisions no less protective to Metro Government Network, Metro Government Infrastructure and/or Metro Government Information than those in this Agreement, and (c) expressly provides Metro Government the right to audit such subcontractor or outsource service provider to the same extent that Metro Government may audit Contractor under this Agreement. Contractor warrants that the Third Party Agreement will be enforceable by Metro Government in the U.S. against the subcontractor or outsource provider (e.g., as an intended third party beneficiary under the Third Party Agreement).

Without limiting any other rights of Metro Government in this Agreement, Contractor remains fully responsible and liable for the acts or omissions of its Agents. In the event of an unauthorized disclosure or use of Sensitive Information by its Agent, Contractor shall, at its own expense, provide assistance and cooperate fully with Metro Government to mitigate the damages to Metro Government and prevent further use or disclosure.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

ACORD®

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/21/2018

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 have ADDITIONAL INSURED provisions or 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
The Buckner Company
6550 South Millrock Dr. Suite #300
Salt Lake City UT 84121-

CONTACT NAME: Donna Kane
PHONE (A/C, No, Ext): 801-937-6740 FAX (A/C, No): 801-365-0808
E-MAIL ADDRESS: dkane@buckner.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Travelers Casualty and Surety Co of America | 31194 |
| INSURER B : Travelers Casualty Insurance Company of America | 19046 |
| INSURER C : Travelers Property Casualty Company of America | 25674 |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED AZTESYS-01
Azteca Systems, LLC
Azteca Systems Midco, LLC
11075 South State #24
Sandy UT 84070

**COVERAGES** **CERTIFICATE NUMBER:** 1544115449 **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 | |
|---|---|---|---|---|---|---|---|---|
| B | X COMMERCIAL GENERAL LIABILITY | Y | Y | ZPP11R02486 | 9/3/2018 | 9/3/2019 | EACH OCCURRENCE | $ 1,000,000 |
| | CLAIMS-MADE X OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 1,000,000 |
| | | | | | | | MED EXP (Any one person) | $ 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | POLICY X PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | | $ |
| A | AUTOMOBILE LIABILITY | Y | Y | BA0055P346 | 9/3/2018 | 9/3/2019 | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| A | X UMBRELLA LIAB X OCCUR | Y | Y | ZUP11R02505 | 9/3/2018 | 9/3/2019 | EACH OCCURRENCE | $ 5,000,000 |
| | EXCESS LIAB CLAIMS-MADE | | | | | | AGGREGATE | $ 5,000,000 |
| | DED X RETENTION $ 10,000 | | | | | | | $ |
| A | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | Y | UB4J2032451715G | 9/3/2018 | 9/3/2019 | X PER STATUTE / OTH-ER | |
| | ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) | N / A | | | | | E.L. EACH ACCIDENT | $ 1,000,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |
| B | Employment Practices Liability | | | 0105780021LB | 9/3/2018 | 9/3/2019 | $5,000 retention | $1,000,000 |
| C | Errors & Omission | | | ZPL14S79590 | 9/3/2018 | 9/3/2019 | $10,000 retention | $5,000,000 |
| | Network & Info Security | | | | | | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Metropolitan Government of Nashville and Davidson County, its officials, officers, employees, and volunteers are named as additional insureds per general liability additional insured endorsement CGD417(01-12) and automobile liability additional insured endorsement CAT437(08-08)

**CERTIFICATE HOLDER**

Purchasing Agent, Metropolitan Government of Nashville and Davidson County,
Metro Courthouse
Nashville TN 37201

**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
Randy C. Emery

© 1988-2015 ACORD CORPORATION. All rights reserved.



The ACORD name and logo are registered marks of ACORD

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The following is added to the **Section II – Liability Coverage,** Paragraph **A.1. Who Is An Insured** Provision:

Any person or organization that you are required to include as additional insured on the Coverage Form in a written contract or agreement that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.



© 2008 The Travelers Companies, Inc.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D



CC: 000 D 9
* 4 C 0 0 2 1 1 R 0 2 4 8 6 6 5 3 3 * M: 0 1 I: 0 0 0 T: 0 0 1

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# TECHNOLOGY XTEND ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**GENERAL DESCRIPTION OF COVERAGE** - This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

**A.** Reasonable Force Property Damage - Exception To Expected Or Intended Injury Exclusion

**B.** Non-Owned Watercraft Less Than 75 Feet

**C.** Aircraft Chartered With Pilot

**D.** Damage To Premises Rented To You

**E.** Increased Supplementary Payments

**F.** Who Is An Insured - Employees And Volunteer Workers - First Aid

**G.** Who Is An Insured - Employees - Supervisory Positions

**H.** Who Is An Insured - Newly Acquired Or Formed Organizations

**I.** Blanket Additional Insured - Owners, Managers Or Lessors Of Premises

**J.** Blanket Additional Insured - Lessors Of Leased Equipment

**K.** Blanket Additional Insured - Persons Or Organizations For Your Ongoing Operations As Required By Written Contract Or Agreement

**L.** Blanket Additional Insured - Broad Form Vendors

**M.** Who Is An Insured - Unnamed Subsidiaries

**N.** Who Is An Insured - Liability For Conduct Of Unnamed Partnerships Or Joint Ventures

**O.** Medical Payments - Increased limits

**P.** Contractual Liability - Railroads

**Q.** Knowledge And Notice Of Occurrence Or Offense

**R.** Unintentional Omission

**S.** Blanket Waiver Of Subrogation

---

## PROVISIONS

### A. REASONABLE FORCE PROPERTY DAMAGE - EXCEPTION TO EXPECTED OR INTENDED INJURY EXCLUSION

The following replaces Exclusion **a., Expected Or Intended Injury**, in Paragraph **2.**, of **SECTION I - COVERAGES - COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

**a. Expected Or Intended Injury Or Damage**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect any person or property.

### B. NON-OWNED WATERCRAFT LESS THAN 75 FEET

The following replaces Paragraph **(2)** of Exclusion **g., Aircraft, Auto Or Watercraft**, in Paragraph **2.** of **SECTION I - COVERAGES - COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**


© 2012 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

(2) A watercraft you do not own that is:

(a) Less than 75 feet long; and

(b) Not being used to carry any person or property for a charge.

**C. AIRCRAFT CHARTERED WITH PILOT**

The following is added to Exclusion **g.**, **Aircraft, Auto Or Watercraft**, in Paragraph **2.** of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

This exclusion does not apply to an aircraft that is:

(a) Chartered with a pilot to any insured;

(b) Not owned by any insured; and

(c) Not being used to carry any person or property for a charge.

**D. DAMAGE TO PREMISES RENTED TO YOU**

1. The first paragraph of the exceptions in Exclusion **j.**, **Damage To Property**, in Paragraph **2.** of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is deleted.

2. The following replaces the last paragraph of Paragraph **2.**, **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

   Exclusions **c.**, **g.** and **h.**, and Paragraphs **(1)**, **(3)** and **(4)** of Exclusion **j.**, do not apply to "premises damage". Exclusion **f.(1)(a)** does not apply to "premises damage" caused by fire unless Exclusion **f.** of Section **I** - Coverage **A** - Bodily Injury And Property Damage Liability is replaced by another endorsement to this Coverage Part that has Exclusion - All Pollution Injury Or Damage or Total Pollution Exclusion in its title. A separate limit of insurance applies to "premises damage" as described in Paragraph **6.** of Section **III** - Limits Of Insurance.

3. The following replaces Paragraph **6.** of **SECTION III – LIMITS OF INSURANCE:**

   **6.** Subject to **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "premises damage" to any one premises.

   The Damage To Premises Rented To You Limit will be:

   **a.** The amount shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part; or

   **b.** $300,000 if no amount is shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part.

4. The following replaces Paragraph **a.** of the definition of "insured contract" in the **DEFINITIONS** Section:

   **a.** A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";

5. The following is added to the **DEFINITIONS** Section:

   "Premises damage" means "property damage" to:

   **a.** Any premises while rented to you or temporarily occupied by you with permission of the owner; or

   **b.** The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.

6. The following replaces Paragraph **4.b.(1)(b)** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

   **(b)** That is insurance for "premises damage"; or

7. Paragraph **4.b.(1)(c)** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted.

**E. INCREASED SUPPLEMENTARY PAYMENTS**

1. The following replaces Paragraph **1.b.** of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B of SECTION I – COVERAGES:**

   **b.** Up to $2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

2. The following replaces Paragraph **1.d.** of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B of SECTION I – COVERAGES:**

   **d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense


© 2012 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

CC: 000 D 9

* 4 C O O 2 11R02486 6535 * M: 01 I: 000 T: 001

of the claim or "suit", including actual loss of earnings up to $500 a day because of time off from work.

**F. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – FIRST AID**

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

   Unless you are in the business or occupation of providing professional health care services, "occurrence" also means an act or omission committed by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor, in providing or failing to provide first aid or "Good Samaritan services" to a person.

2. The following is added to Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED:**

   Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a)**, **(b)**, **(c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any of your "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following is added to Paragraph **5.** of **SECTION III – LIMITS OF INSURANCE:**

   For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed by any of your "employees" or "volunteer workers" in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following is added to the **DEFINITIONS** Section:

   "Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

**G. WHO IS AN INSURED – EMPLOYEES – SUPERVISORY POSITIONS**

The following is added to Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED:**

Paragraphs **(1)(a)**, **(b)** and **(c)** above do not apply to "bodily injury" or "personal injury" to a co-"employee" in the course of the co-"employee's" employment by you arising out of work by any of your "employees" who hold a supervisory position.

**H. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS**

The following replaces Paragraph **4.** of **SECTION II – WHO IS AN INSURED** of the Commercial General Liability Coverage Form, and Paragraph **3.** of **SECTION II – WHO IS AN INSURED** of the Global Companion Commercial General Liability Coverage Form, to the extent such coverage forms are part of your policy:

Any organization you newly acquire or form, other than a partnership or joint venture, of which you are the sole owner or in which you maintain the majority ownership interest, will qualify as a Named Insured if there is no other insurance which provides similar coverage to that organization. However:

**a.** Coverage under this provision is afforded only:

   **(1)** Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

   **(2)** Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it, and we agree in writing that it will continue to be a Named Insured until the end of the policy period;

**b.** Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

**c.** Coverage **B** does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.


© 2012 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

**I. BLANKET ADDITIONAL INSURED – OWNERS, MANAGERS OR LESSORS OF PREMISES**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any person or organization that is a premises owner, manager or lessor is an insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor does not apply to:

**a.** Any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or

**b.** Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.

**J. BLANKET ADDITIONAL INSURED – LESSORS OF LEASED EQUIPMENT**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any person or organization that is an equipment lessor is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" caused, in whole or in part, by your acts or omissions in the maintenance, operation or use by you of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after the equipment lease expires.

**K. BLANKET ADDITIONAL INSURED – PERSONS OR ORGANIZATIONS FOR YOUR ONGOING OPERATIONS AS REQUIRED BY WRITTEN CONTRACT OR AGREEMENT**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any person or organization that is not otherwise an insured under this Coverage Part and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" that:

**a.** Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and

**b.** Is caused, in whole or in part, by your acts or omissions in the performance of your ongoing operations to which that contract or agreement applies or the acts or omissions of any person or organization performing such operations on your behalf.

The limits of insurance provided to such insured will be the limits which you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

**L. BLANKET ADDITIONAL INSURED – BROAD FORM VENDORS**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any person or organization that is a vendor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" that:

**a.** Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and

**b.** Arises out of "your products" which are distributed or sold in the regular course of such vendor's business.

The insurance provided to such vendor is subject to the following provisions:

**a.** The limits of insurance provided to such vendor will be the limits which you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

**b.** The insurance provided to such vendor does not apply to:

**(1)** Any express warranty not authorized by you;

**(2)** Any change in "your products" made by such vendor;

**(3)** Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

**(4)** Any failure to make such inspections, adjustments, tests or servicing as vendors agree to perform or normally undertake to perform in the regular course of business, in connection with the distribution or sale of "your products";


© 2012 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

CC: 000 D6 9 * M: 01 I: 000 T: 001 * 4 C 0 0 2 11R02486 6537

(5) Demonstration, installation, servicing or repair operations, except such operations performed at such vendor's premises in connection with the sale of "your products"; or

(6) "Your products" which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or on behalf of such vendor.

Coverage under this provision does not apply to:

a. Any person or organization from whom you have acquired "your products", or any ingredient, part or container entering into, accompanying or containing such products; or

b. Any vendor for which coverage as an additional insured specifically is scheduled by endorsement.

**M. WHO IS AN INSURED – UNNAMED SUBSIDIARIES**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

a. You maintain an ownership interest of more than 50% in such subsidiary on the first day of the policy period; and

b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal injury" or "advertising injury" caused by an offense committed:

a. Before you maintained an ownership interest of more than 50% in such subsidiary; or

b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

**N. WHO IS AN INSURED – LIABILITY FOR CONDUCT OF UNNAMED PARTNERSHIPS OR JOINT VENTURES**

The following replaces the last paragraph of **SECTION II – WHO IS AN INSURED:**

No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations. This paragraph does not apply to any such partnership or joint venture that otherwise qualifies as an insured under Section **II** - Who Is An Insured.

**O. MEDICAL PAYMENTS – INCREASED LIMITS**

The following replaces Paragraph **7.** of **SECTION III – LIMITS OF INSURANCE:**

7. Subject to **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

(a) $10,000; or

(b) The amount shown on the Declarations of this Coverage Part for Medical Expense Limit.

**P. CONTRACTUAL LIABILITY – RAILROADS**

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:

c. Any easement or license agreement;

2. Paragraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

**Q. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE**

The following is added to Paragraph **2.**, **Duties In The Event of Occurrence, Offense, Claim or Suit**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

e. The following provisions apply to Paragraph **a.** above, but only for the purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph **1.** or **2.** of Section **II** - Who Is An Insured:

(1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your trustees who is an individual (if you are a trust), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, limited liability company or trust) or any "employee" author-


© 2012 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

ized by you to give notice of an "occurrence" or offense.

**(2)** If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:

**(a)** Any individual who is:

**(i)** A partner or member of any partnership or joint venture;

**(ii)** A manager of any limited liability company;

**(iii)** A trustee of any trust; or

**(iv)** An executive officer or director of any other organization;

that is your partner, joint venture member, manager or trustee; or

**(b)** Any "employee" authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.

**(3)** Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraphs e. (1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.

However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.

## R. UNINTENTIONAL OMISSION

The following is added to Paragraph **6., Representations,** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

## S. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph **8., Transfer Of Rights Of Recovery Against Others To Us,** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

**a.** "Bodily injury" or "property damage" caused by an "occurrence" that takes place; or

**b.** "Personal injury" or "advertising injury" caused by an offense that is committed;

subsequent to the execution of the contract or agreement.


© 2012 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

DocuSign Envelope ID: E97E1E43-08E2-4B6C-8381-5A4EA79D407D

# METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
## DEPARTMENT OF FINANCE – PROCUREMENT
## SOLE SOURCE JUSTIFICATION FORM

***Send an email to PRG@nashville.gov and attach completed sole source form and supporting documentation.***

*Purchasing Agent approval MUST be received prior to entering a requisition in iProcurement to minimize the potential for delay.*

***Proposed supplier MUST be Registered in iProcurement***

Date: 4/4/18 Requesting Department/Agency/Commission: Department/Agency/Commission Name

Requesting Official: Keith Durbin Telephone #: 862-6220 This request is for a multi-year contract.

Product/Service Description: Enterprise Licence Agreement for Cityworks Software

**Total Purchase** ***(Enter the value for the entire contract life)*** **Price:** $1,032,000.00

BU Number: _____ Fund #: _____ Object Account: _____ Any Other Accounting Info: TBD, Multi-Department Funded

---

Proposed Supplier: Azteca Systems LLC Proposed Supplier Contact: Jeremy White

Supplier Address: 11075 South State Suite 24 City: Sandy ST: UT Zip: 84070

Supplier Telephone #: 816-351-5777 Supplier Email: Jeremy White <jwhite@cityworks.com>

---

**Metro Code: 4.12.060** ***Sole Source Procurement.***
A contract may be awarded for a supply, service or construction item without competition when, under regulations promulgated by the standards board, the purchasing agent determines in writing that there is only one source for the required supply, service or construction item. The standards board may, by regulation, establish specific categories of supplies, services, or construction items as sole source items. (Ord. 92-210 § 1 (3-205), 1992)

Other Justification

If Other, Explain Request: This is the manafacture of the Cityworks software suite and the sole licencer of this software much like Microsoft is the sole licencer of Microsoft products..

Requesting Department Director's or Approved Designee's Signature of Approval 4/4/18 Date

***To be completed by the Procurement Division***

☑**Sole Source is Approved for a** ☐ **Purchase Order** ☐ _____ **Year(s) Contract** length

☐**Sole Source is Denied; Reason for Denial** _____

**SENIOR PROCUREMENT OFFICER:** _____ **DATE:** _____

**PURCHASING AGENT:** _____

**DATE:** _____