

# ON-CALL ENGINEERING SERVICES AGREEMENT

between  
**THE CITY AND COUNTY OF DENVER**  
 and  
**ENGINUIY ENGINEERING SOLUTIONS, LLC**  
 Contract No. OC 11008

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## ON-CALL ENGINEERING SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011, between the **CITY AND COUNTY OF DENVER** (the "City"), a municipal corporation of the State of Colorado, and **ENGUITY ENGINEERING SOLUTIONS, LLC** (the "Consultant"), a Colorado limited liability corporation, whose address is 9137 East Mineral Circle, Suite 180, Centennial, Colorado 80112.

### RECITALS:

1. The City, through its Department of Public Works desires to secure "readily available" professional engineering services and related technical services to support the Department's Wastewater Management Division on an "as needed" basis, Contract Control Number OC11008; and
2. The Consultant represents that its members include a duly-licensed engineer of the State of Colorado, and that the Consultant has the present capacity, experience and qualifications to perform professional engineering services for the City in connection with the planning, design and construction of various City projects, as specified in this Agreement; and
3. In response to the City's Request for Qualifications and Proposal, the Consultant submitted a Proposal for such services to the City. The Consultant and the City have negotiated a Scope of Services and Fee Proposal for such professional services, a copy of which is attached hereto and incorporated herein as **Exhibit A** and **Exhibit B**;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and obligations herein set forth, the parties hereto mutually agree as follows:

### SECTION 1 – ENGAGEMENT

**1.01 Engagement.** The City engages the Consultant with respect to the furnishing of professional engineering services on an on-call basis, as set forth in this Agreement. The Consultant accepts such engagement upon, subject to and in accordance with the terms, conditions and provisions of this Agreement.

**1.02 Line of Authority for Contract Administration.** The City's Manager of Public Works ("Manager") is the City's representative responsible for authorizing and approving the work performed under this Agreement. The Manager hereby designates the Director of Engineering as the Manager's authorized representative for the purpose of designating a Project Manager, for the purpose of issuing a written Notice to Proceed and for purposes of administering, coordinating and finally approving the work performed by the Consultant under this Agreement. The Project Manager shall be responsible for the day-to-day administration, coordination and approval of work performed by the Consultant, except for approvals which are specifically identified in this Agreement as requiring the Manager's approval. The Manager expressly reserves the right to designate another authorized representative to perform on the Manager's behalf by written notice to the Consultant.

**1.03 Independent Contractor.** The Consultant is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Consultant nor

any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

**1.04 Scope of Consultant's Authority.** The Consultant shall have no authority to act on behalf of the City other than as expressly provided in this Agreement. The Consultant is not authorized to act as a general agent for or to undertake, direct or modify any contracts on behalf of the City. The Consultant lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the D.R.M.C.

## **SECTION 2 – CONSULTANT'S SERVICES**

**2.01 General.** The Consultant shall provide professional engineering services for any assigned project, on an as-needed basis, in accordance with the terms and conditions of this Agreement.

**2.02 Professional Responsibility; Project Requirements.**

- (a) All of the work performed by the Consultant under this Agreement shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform work of a nature similar to the Work described in this Agreement.
- (b) The Consultant agrees to strictly conform to and be bound by written standards, criteria, budgetary considerations and memoranda of policy furnished to it by the City and further agrees to design and engineer each project in compliance with applicable laws, statutes, codes, ordinances, rules and regulations, and industry standards.
- (c) All professional services, plans and specifications and other work, or deliverables provided under this Agreement for the Project shall be adequate and sufficient for the proper construction of the Project and its intended purpose.
- (d) All drawings, specifications and other products shall be prepared so that the Project, when constructed in accordance with such drawings and specifications, complies with the Department of Public Works Standard Specifications for Construction - General Conditions, all applicable laws, statutes, codes, ordinances, rules and regulations of the City, state and federal government.
- (e) Any design changes required by changes in such applicable laws, statutes, codes, ordinances or rules and regulations of the City, state or federal government, which are enacted after the City's acceptance of Construction Documents, will be outside the scope of the Consultant's basic services and basic fee, and will be compensated for approval as an additional service, subject to the additional services budget for that project.
- (f) The Consultant shall prepare the plans, specifications and other documents as requested for each project in a format that complies with all City, state and federal requirements. It shall be the Consultant's responsibility to contact the reviewing agencies to determine the acceptable format for the final documents.



No documents will be considered final until approved by the City, even though any responsible federal and state agencies have approved such documents.

- (g) The City reserves the right to proceed with the construction of each project using either the City's standard general contractor bidding approach, on call contractors or other construction management techniques. The Consultant agrees to organize its Contract Documents for the selected construction technique and coordinate the documents into selected bid packages, as appropriate. The City will notify the Consultant prior to the completion of the Preliminary Design Phase which method will be used and the amount of work or the limits of construction to be included in the proposed bid package(s).
- (h) The reports, studies, drawings and specifications and other products prepared by the Consultant under this Agreement, when submitted by the Consultant to the Manager and the user agency for any identified phase of a project, must represent a thorough study and competent solution for the project as per usual and customary professional standards and shall reflect all architectural and engineering skills applicable to that phase of the project.
- (i) The responsibilities and obligations of the Consultant under this Agreement shall not be relieved or affected in any respect by the presence on the site of any agent, consultant or subconsultant, or an employee of the City.
- (j) The Consultant shall provide all professional services required by the City in defending all claims against the City, which relate in any way to alleged default hereunder, errors or omissions of the Consultant or its subconsultants, without additional compensation.

#### **2.03 Program and Budget:**

- (a) The Consultant agrees to discuss the City's program and budget for each assigned project with the Project Manager and further agrees, unless it has notified the City in writing that the project cannot be accomplished within such budget, to accomplish the project within the intent of the program and final proposal cost. Should the Consultant determine that an assigned project cannot be accomplished within the final proposed cost, the Consultant shall immediately notify the Project Manager, in writing, so that the project scope or project budget can be reviewed and modified if necessary.
- (b) If the City requires the Consultant to prepare a formal proposal with a maximum estimated fee for a particular project, the Consultant agrees to complete the project within the limits of the approved final proposal cost, unless otherwise modified by the City. Should all project work exceed such cost, the Consultant agrees to redesign and/or complete the Project at no additional cost to City and, in a manner acceptable to the City.

#### **2.04 Coordination and Cooperation:**

- (a) The Consultant agrees to perform under this Agreement in such a manner and at such times that the City or any Contractor who has work to perform, or contracts to execute, can do so without unreasonable delay.

- (b) Coordination with the City and other involved agencies shall be a continuing work item through all phases of each assigned project. Such coordination shall consist of regular progress and review meetings with the City, work sessions with Wastewater, or as otherwise directed by the City. Such coordination may also include field and office reviews of plans and documents as required during the development of the design for any specific project. If requested, the Consultant shall document conferences and distribute notes to the City.

#### **2.05 Personnel Assignments:**

- (a) The key professional personnel identified in **Exhibit C** will be assigned by the Consultant or its subconsultants to perform the services required under this Agreement, as appropriate.
- (b) The Consultant's services shall be diligently performed by the regular professional and technical staff of the Consultant. In the event the Consultant does not have as part of its regular staff certain professional consultants, then such consulting services shall be performed, with City approval, by practicing professional consultants outside of the employ of the Consultant.
- (c) The Consultant agrees, at all times during the term of this Agreement, to maintain on its payroll or to have access to through outside subconsultants, professional design personnel and technicians in sufficient strength to meet the requirements of the City. Such personnel and technicians shall be of the classifications referenced in Exhibit B. The hourly rates specified therein include all costs except those specifically referenced as reimbursables in the appropriate hourly rate schedule.
- (d) Prior to designating an outside professional to perform subconsultant work, the Consultant shall submit the name of such subconsultant, together with a resume of training and experience in work of like character and magnitude of the project being contemplated, to the City and receive prior approval in writing.
- (e) It is the intent of the Parties hereto that all key professional personnel be engaged to perform their specialty for all such services required by this Agreement and that the Consultant's and the subconsultant's key professional personnel be retained for the life of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed hereunder.
- (f) If the Consultant or a subconsultant decides to replace any of its key professional personnel, the Consultant shall notify the Manager in writing of the desired change. No such changes shall be made until replacement personnel are recommended by the Consultant and approved in writing by the Manager, which approval shall not be unreasonably withheld.
- (g) If, during the term of this Agreement, the Manager determines that the performance of approved key personnel or a subconsultant is not acceptable, the Manager shall notify the Consultant and give the Consultant the time which the Manager considers reasonable to correct such performance. Thereafter, the Manager may require the Consultant to reassign or replace such key personnel.

If the Manager notifies the Consultant that certain of its key personnel or a subconsultant should be replaced, Consultant will use its best efforts to replace such key personnel or a subconsultant within ten (10) days from the date of the Manager's notice.

- (h) Neither the Consultant nor any subconsultant shall have other interests which conflict with the interests of the City, including being connected with the sale or promotion of equipment or material which may be used on a project to which they may be assigned, and the Consultant shall make written inquiry of all of its subconsultants concerning the existence of a potential for such conflict. In unusual circumstances, and with full disclosure to the City of such conflict of interest, the City, in its sole discretion, may grant a written waiver for the particular consultant or subconsultant.
- (i) Actions taken by the City under this Article shall not relieve the Consultant of its responsibility for contractual or professional deficiencies, errors or omissions.
- (j) The Consultant shall submit to the Manager a list of any additional key professional personnel who will perform work under this Agreement within thirty (30) days after this Agreement has been executed, together with complete resumes and other information describing their ability to perform the tasks which may be assigned. Such additional personnel must be recommended by the Consultant and approved by the Manager before they are assigned to a specific project.
- (k) The Manager shall respond to the Consultant's written notice regarding replacement of key professional personnel within fifteen (15) days after the Manager receives the list of changes. If the Manager or his designated representative does not respond within that time, the changes shall be deemed to be approved.

#### **2.06 Basic Services - General**

- (a) The Consultant shall, under the general direction of and at the written request of the Manager, furnish experienced engineering personnel to support the Department's existing personnel. Subject to an express, agreed upon limitation of such duties set forth in any approved project proposal for the particular project assigned to the Consultant under this Agreement, the Consultant agrees to perform all of the services and duties set forth in this Agreement in regard to each project to which it is assigned and its proposal is approved.
- (b) When directed by the Manager to perform under this Agreement on a particular project, the Consultant shall prepare a project specific proposal in accordance with the provided scope or description of Work for that project. A separate project specific proposal shall be prepared for each project for which the Consultant's services are required and shall set forth, at a minimum all of the following:
  - (1) The maximum fee for the Consultant's proposed services.

- (2) The surveying, utility locating and testing budget for the project if applicable.
  - (3) The additional services budget, if any, for the Project.
  - (4) The budget for reimbursable expenses if applicable.
  - (5) A description of the project and requested scope of work (the "Work").
  - (6) An agreed upon schedule for the Consultant's performance.
- (c) Upon approval by the Manager of a project proposal, the approval and appropriation of funding for such project, and the issuance of a written Notice to Proceed, the Consultant shall proceed to perform required Work.
- (d) The assigned Work shall be performed in conformance with the approved project specific proposal.
- (e) The Consultant's basic services for each project to which it is assigned may consist of any one or combination of the phases described below and shall include, but are not limited to the civil, structural, mechanical, and electrical engineering and testing services appropriate to each phase of each project and the services described in **Exhibit A**.
- (f) The Consultant shall obtain written authorization from the City before proceeding with each phase of each assigned project.
- (g) Nothing in this Agreement shall be construed as placing any obligation on City to proceed with any phase beyond the latest phase authorized in writing by City for each assigned project. Further, nothing in this Agreement shall be construed as guaranteeing the Consultant any minimum amount of Work or number of projects assigned under this Agreement.
- (h) If a project which is assigned to the Consultant under this Agreement is funded in whole or part by federal funds, each of the applicable terms set forth in any funding arrangement for such funds shall be, and by this reference are incorporated into the project specific proposal for such project, and included in the Consultant's basic services responsibilities for such project.
- (i) The responsibilities and obligations of the Consultant under this Agreement shall not be relieved or affected in any respect by the presence on the site of any agent, consultant, subconsultant, or employee of the City.

**2.07 Basic Services - Phase Specific:** All of the services described in this Section 2.07, unless specifically noted as omitted in the project specific proposal for a specific project, are included in the Consultant Basic Fee for each project to which the Consultant is assigned.

(a) Programming and Investigation Phase:

- (1) The Consultant shall attend such conferences as may be required for a complete understanding of each project, and the Consultant shall document all such conference notices and distribute minutes of such conferences to the City.

- (2) If construction, design or document standards have been adopted by the City, the state, or the federal government for the Project, the Consultant shall comply with all such standards when applicable.
  - (3) The Consultant shall perform all additional research or investigation it deems necessary to ensure a complete understanding of the project.
  - (4) The Consultant shall review the needs and requirements of the City and affected agencies to determine the specific requirements of the specific project based on the information provided by the City.
  - (5) The Consultant shall then review with the City the project requirements with the City to confirm its understanding of the project, budget and any applicable limitations.
  - (6) Upon approval of such costs by the City, and subject to the surveying, utility locating and testing budget for the specific project, the Consultant shall obtain all plats, special studies and engineering data necessary to properly investigate and report on the project.
  - (7) The Consultant shall then, through a written report and informal presentation, review with the City alternate methods or approaches to the design and construction of the project and recommend those methods or approaches best suited to program needs and overall budget constraints of the City.
  - (8) The Consultant shall also include as part of this phase all applicable portions referenced in **Exhibit A**.
- (b) Schematic Design Phase:
- (1) The Consultant shall not begin work on the Schematic Design Phase of any project unless and until written notice to proceed with such phase is received from the Project Manager.
  - (2) During the Schematic Design Phase for each project, the Consultant shall, in response to the City's requirements, the budget restrictions of the project and the format of design and construction selected by City, prepare for the City's approval schematic design documents including, but not limited to, drawings and other documents demonstrating and illustrating the scope and scale of the project and the relationship of the project components. Such documents shall be in sufficient detail so as to allow the City to make knowledgeable and informed decisions as to the selection of alternates and resolution of other scope and budget questions.
  - (3) The Consultant shall also provide a preliminary Statement of Probable Construction Cost of the project for the City, taking into account the City's project budget.

- (4) The Consultant shall also include as part of this phase all applicable portions referenced in **Exhibit A**.
- (c) Design Development Phase:
  - (1) Prior to beginning the Design Development Phase of each project, the Consultant shall obtain written approval of its final Schematic Design Documents and the Statement of Probable Cost.
  - (2) The Consultant shall prepare Design Development Documents based upon the approved schematic design documents and any adjustments in the program and budget authorized by the Manager.
  - (3) The Design Development Documents shall include but not be limited to sufficient data, information and material to define the scope of the project and to demonstrate the general design of the project, including the size and character of the project as to architectural, civil, structural, mechanical and electrical systems, materials, and any other project elements appropriate under each project scope and design.
  - (4) As required, the Consultant shall prepare Design Development drawings which shall include but not be limited to:
    - (i) Drawings which show existing topographic features and improvements affecting or relating to the proposed project. The Consultant shall indicate revisions to be made to existing topographic features and improvements such as grading and construction of drainage facilities. Where drainage facilities are to be provided, the Consultant shall indicate direction of flow and point of discharge by appropriate symbol or notes.
    - (ii) Drawings setting forth the basic information necessary to establish space requirements and functional arrangement.
    - (iii) Drawings which demonstrate the functional layout of mechanical, electrical and electronic features, special equipment and, plumbing and heating, where applicable.
    - (iv) Drawings demonstrating the location, dimension, sections, areas and capacities applicable to parking areas, access roads, driveways, walks, and similar features.
    - (v) Drawings demonstrating the location and size of existing or proposed storm or sanitary sewers, water mains, gas main and electrical services as needed for the construction of the project, as well as elevations of gravity lines and location of proposed building connections with notations showing which of proposed building connections with notations showing which of the necessary utility extensions or connections will be provided by others.

- (vi) Drawings showing simplified schematic electrical diagrams for each electronic or instrumentation system for any required system functions.
- (5) The Consultant shall also prepare preliminary specifications, when specifically requested, for each project. The Consultant must ensure that existing standard details and technical specifications for specific requesting agencies are strictly followed. Alteration and editing of existing standards is not acceptable. Project specific alterations which are necessary to existing standards must be addressed using revision sheets.
- (6) The Consultant shall provide a proposed project time schedule, including key dates and milestones.
- (7) The Consultant shall then prepare a Statement of Probable Construction Cost which shall be calculated by the Consultant to a uniform and detailed level, based on the drawings and the preliminary specifications for this phase of the project, reflecting the probable project construction costs and taking into account the building trades and construction components utilized in the project design.
- (8) The Consultant shall also provide, as part of this phase, all applicable services referenced in **Exhibit A**.
- (d) Construction Documents Phase:
  - (1) Prior to beginning the Construction Documents Phase, the Consultant shall obtain acceptance in writing of the Design Development Documents and the accompanying Statement of Probable Construction Cost. Upon acceptance by the City, in writing, of the Statement of Probable Construction Cost, such statement shall become the City's Final Budget for Project Construction. Acceptance of the Design Development Documents shall not be construed as approval of the adequacy of the Design Development Documents and shall not relieve the Consultant of any liability for any defaults, deficiencies, errors or omissions contained therein.
  - (2) The Consultant shall prepare the Construction Documents from the approved Design Development Documents and by incorporation of any further changes authorized by the City and agreed to by the Consultant. The Construction Documents shall set forth in detail the requirements for the completion of the entire project. At a minimum, these documents must include complete information necessary to bid the project, and shall contain complete bidding documents meeting all City and, as applicable, state and federal requirements.

- (3) The Construction Documents shall include, but not be limited to, complete drawings and specifications setting forth the requirements for the completion of the project in adequate, reasonable, reliable and final detail.
  - (4) The Consultant shall file all documents necessary and required for the approval of the project design by governmental authorities having jurisdiction over the project. The City will lend any required assistance, such as signing application(s) and paying any permit or other fees.
  - (5) Acceptance of the Construction Documents shall not relieve the Consultant of any responsibility for design deficiencies, omissions or errors.
  - (6) All final plans and specifications shall bear the signature(s) and seal(s) of Consultant and/or the responsible subconsultant, in conformity with the requirements of Articles 4 and 25 of title 12, C.R.S. It is intended by the parties that the Construction Documents, including all plans and specifications, will be signed and sealed, in whole or in part as appropriate, by the licensed professional engineer and/or architect in responsible charge of the preparation of such plans and specifications or parts thereof. The Consultant shall be ultimately responsible for all design work provided under this Agreement.
  - (7) The Consultant shall make available for review, by the City, all design data forming the basis for drawings and specifications.
  - (8) The Consultant shall provide a list of long lead items to the City's Project Manager.
  - (9) The Consultant shall provide the City with a Final Statement of Construction Cost based upon the submitted Design Documents for the City's consideration.
  - (10) The Consultant shall also include as part of this phase all applicable portions of **Exhibit A**.
- (e) Bidding Phase:
- (1) Prior to beginning the Bidding Phase of the project, the Consultant shall obtain the City's acceptance, in writing, of the Construction Documents. Such acceptance shall not be construed as approval of the adequacy of the Construction Documents.
  - (2) The time schedule for work under this phase shall be governed by the times shown in the printed project bid package(s), as modified by any addenda. During this phase, the Consultant's duties shall include, but not be limited to:



- (i) Preparing and submitting the project documents, bid documents, and the invitation for bids for the written acceptance of City prior to the advertising by the City and solicitation of bids. Such acceptance shall not be construed as approval of the adequacy of the documents and shall not relieve the Consultant of the responsibility for design deficiencies, errors, or omissions;
- (ii) Assisting the City in advertising the Invitation(s) for Bids and assisting in the distribution of Bid Documents;
- (iii) Preparation and submittal to the City of a tentative pre-bid project schedule, in a form approved by the City, in sufficient detail to show the major completion milestones required by the City, and appropriate to the size, complexity and scope of the project;
- (iv) Providing the City with twenty-five (25) copies of the Bid Package and Bid Documents or such other number as are required by the proposal;
- (v) Distributing copies of the Bid Package(s) and Bid Documents, and collecting deposits, if any, for same. The amount of the deposits will be set by the City;
- (vi) Answering questions by bidders and approving "equals" to specified materials. Lists of those materials approved as equals shall be prepared and distributed to the bidders as an addendum, with explanatory notes if necessary;
- (vii) Preparing any necessary addenda;
- (viii) Participating in the pre-bid conference with prospective bidders;
- (ix) Attending the bid opening set by the City and furnishing tabulation sheets for bidders;
- (x) Reviewing all bids for the reasonableness of the bid price and the qualifications of the lowest responsive bidders, assisting in the preparation and certification of the bid tabulation and recommending the lowest responsive bidder; and
- (xi) Performing all work noted in all applicable portions of **Exhibit A**.

(f) Construction Administration Phase:

- (1) The Construction Administration Phase shall commence with execution of the Construction Contract(s) and the issuance of the Notice to Proceed to the Project Contractor(s), or the first of them, by the City.

- (2) The time schedule for Consultant's Work under this phase shall be set and governed by the approved project schedule. However, the Consultant's schedule for this phase may be changed due to project change orders or due to time extensions to such schedule, and will in any event be extended until all project documents (original and record drawings, specifications, test reports, surveying notes, design calculations and other pertinent information) have been received by the City and the final payment for services is paid. No additional compensation will be paid to the Consultant because of extensions of the Contractor's period of performance or other performance schedule revisions.
- (3) The Consultant shall assist at a pre-construction conference with the Contractor and shall take and distribute to the City and the Contractor written minutes of the pre-construction conference and of all meetings conducted by the Consultant.
- (4) The Consultant shall take written minutes of all project meetings and shall distribute such minutes to the City and Contractor within five (5) days.
- (5) The Consultant shall conduct meetings, which shall be held on a weekly basis, at which time the Contractor and the Consultant may discuss and, in conjunction with the City, resolve such matters as procedures, job progress, construction problems, scheduling or other matters relating to the timely and successful completion of the project in accordance with the contract requirements. Additional special job site meetings shall be held when deemed necessary by the Consultant.
- (6) On the basis of the Consultant's on-site visits, the Consultant shall keep the City informed through a monthly written report of the progress and quality of work.
- (7) The Consultant shall, within five (5) working days of receipt of each pay request from Contractor, determine the amount owing to Contractor and shall certify requests for payment in such amounts, on the basis that the Work has progressed to the point indicated and that the quality of work is in accordance with the Contract Documents, or, within the same five (5) days, reject the pay request for due cause and advise the Contractor and, in either scenario, submit the pay request to the responsible City official.
- (8) If, in the Consultant's opinion, the Contractor has fallen behind schedule, the Consultant shall immediately notify the Project Manager. If the Contractor refuses or fails to prosecute the work, or any part thereof, with such diligence as will insure its completion within the time specified in the Contract Documents, or any extension thereof, or fails to complete said work within such

time, or refuses to correct defective work, the Consultant shall immediately notify the City and recommend a course of action.

- (9) The Consultant will be the interpreter of the requirements of the Project Plans and Specifications. The Consultant will render written interpretations within ten (10) days of receipt of any written request or within an agreed upon time limit.
- (10) The Consultant shall reject work which, in the Consultant's opinion, does not conform to the Contract Documents, and shall notify the Contractor and the City of the reason for each such rejection. To confirm compliance with the Contract Documents, drawings, specifications, designs and plans, the Consultant may request approval by the City to direct the Contractor to uncover any portion of the work in accordance with the General Contract Conditions.
- (11) The Consultant shall review and approve all shop drawings, samples and other required submissions of the Contractor in a timely manner. Such general submissions shall be approved for use on the project only if, and when, the Consultant has ascertained that they are in conformance with the design concept of the project and in compliance with contract documents. Submissions of Contractor(s) shall be acted on and returned to the Contractor within ten (10) days of receipt thereof. If review and return are delayed beyond the time set out above, the Consultant shall notify Contractor and City of such delay, in writing, before expiration of the approval date, stating the reason for the delay. Resubmittals shall be acted on and returned to Contractor within five (5) days. The Contractor shall submit to the Consultant prior to the beginning of construction, a schedule of submittals. No shop drawing or submittal will be approved prior to the receipt of the submittal schedule.
- (12) The Consultant shall review and analyze all written requests for Change Orders, including any documents offered to substantiate such requests. The Consultant shall submit written recommendations to the City concerning all requests for Change Orders, and shall prepare and issue those Change Orders approved by City.
- (13) All change orders shall be on forms supplied by the City. The Consultant shall keep a current record of all variations or departures from the drawings and specifications as originally approved and shall maintain careful supervision over all changes in final drawings in the course of the work.
- (14) The City will transmit a copy of all completed change orders to the Consultant for use in checking shop drawings and compiling record drawings for project construction.

- (15) The Consultant shall ensure that no changes are made in the work, by any party, without prior written consent of the City except as hereinafter provided: The Consultant may authorize minor changes in the work not affecting the project value or cost or time of completion, and shall inform the City of such approvals or directions in writing.
- (16) The Consultant shall observe and systematically review the performance of the work or in such a manner and at such times as is necessary to determine that the work has been or is being installed in conformance with the Contract Documents. If any work is not in conformance with the Contract Documents, the Consultant shall immediately make an oral report of such nonconformance to the Contractor, followed by a written report of such nonconformance to both the nonconforming Contractor and the City. The Consultant, however, does not assume and is not responsible for any of the Contractor's construction means, methods, techniques, or safety programs in constructing the project. The on-site visits by the Consultant shall be made by members of the appropriate engineering or architectural discipline according to the status of the work and may vary with the progress of work from daily to weekly. The frequency of on-site visits shall be that which the Consultant considers necessary to safeguard the interests of the City through a determination that the Work is being performed in compliance with the Contract Documents, and with applicable laws, statutes, codes, ordinances, rules and regulations and standards.
- (17) On each visit to the site, the Consultant shall make, and file within seven (7) days with the City, a field report using the form(s) approved by the Project Manager for each individual project.
- (18) Should the Contractor or any subcontractor fail to comply with the Contract Documents, drawings, specifications, designs and plans prepared by the Consultant, the Consultant shall report such failure to the non-complying Contractor and City's project manager. If the City's Project Manager is unable to be reached in person or by phone, the Consultant shall, if appropriate, issue a stop-work order to the contractor for up to four hours. If in issuing such a stop-work order to the contractor, the Consultant acts in accordance with the professional standards for performance of its services under this Agreement, it shall not be responsible for any delay in the performance of the work caused by the issuance of such stop-work order. After the expiration of the four-hour stop-work order, or as soon as notice is given to the City by the Consultant, whichever occurs first, the Consultant shall recommend to the City whether the suspension should continue and provide the City with a written statement regarding the circumstances surrounding the

issuance of the stop-work order. Any further suspension of the work shall be the responsibility of the City.

- (19) The Consultant shall notify the Project Manager of specific critical observations it intends to carry out during the various phases of the project.
- (20) If the Consultant becomes aware of any condition or event constituting a material default by the Contractor or that otherwise justify termination of a Contractor for cause, the Consultant shall notify the City immediately.
- (21) Upon the completion of the entire work or a designated portion thereof, the Consultant shall, in consultation with the City, issue a Certificate of Substantial Completion in accordance with the provisions of the construction contract and its General and/or Special Contract Conditions.
- (22) The Consultant shall, in consultation with the City, provide to the Contractor(s) and to the City a close-out program, including a comprehensive process to ensure timely, efficient and proper completion of all punch list items by the Contractor in accordance with the provisions of the Contract Documents.
- (23) "Record Drawings" shall be defined as a revised set of drawings submitted by a consultant or contractor upon completion of a project or a particular job that reflect all changes made in the specifications and working drawings during the construction process, and locations of all elements of the work completed under the contract. Record Drawings may also be referred to as as-built drawings or just as-builts.

Prior to Final Inspection, the Consultant shall obtain the original "Red-line" drawings and final survey, if applicable, as well as a conformed copy of the Project Specifications from each Contractor. Based on these documents, the Consultant shall prepare, as necessary, and deliver to the Project Manager Record Drawings and a conformed copy of the Project Specifications showing all changes made during construction. Such Record Drawings shall reflect all known modifications to the original drawings and shall be made from the "Red-line" sets of drawings prepared by Contractor along with the final survey information as applicable. These final Record Drawings shall incorporate the Consultant's observations, shall be made in a professional manner and shall be stamped and signed by the Consultant as being Record Drawings. These final Record Drawings shall be delivered to the City Project Manager in hard copy and .pdf format, together with all of the "Red-line" drawings provided by the Contractor(s) and the final survey records, as applicable, from which they were derived. The last five percent (5%) of the Consultant's basic

services fee for each project will not be paid until such Record Drawings and all support documents required are received.

- (24) The Consultant shall attend the Final Inspection with the Contractor and the City to ascertain that all work performed by the Contractor has been performed in accordance with the Contract Documents. At the time of such Final Inspection, a final punch list shall be agreed to by the Consultant and the City, and made in sufficient detail to fully outline to the Contractor: (1) any work to be completed; (2) any work not in compliance with the drawings or specifications; and (3) any unsatisfactory work.
- (25) Prior to final payment to the Contractor, the Consultant shall review all outstanding claims, Contractor requests and final punch list work, of any type or description, which have not been settled during the Contractor's work on the project and shall prepare a written report outlining the background and status of such claims, deficient or outstanding work and deficient or outstanding Work and making recommendations as to the ultimate disposition of such outstanding claims and Work.
- (26) One month prior to the expiration of the warranty or other correction of work period provided for in the General and/or Special Contract Conditions to the Contract Documents, the Consultant shall inspect the project for any deficiencies that may have become apparent. Upon completion of such inspection, a written report of the inspection shall be furnished by the Consultant to the City and the Contractor and the Consultant shall issue the necessary directives to the Contractor to require that the deficiencies are corrected at no cost to the City.
- (27) The Consultant shall also include as part of this phase all remaining and applicable portions of **Exhibit A**.

**2.08 Surveying and Testing:**

- (a) The Consultant shall obtain all necessary surveying, tests and reports to properly design and administer the construction of each project, including, but not limited to, soils and hazardous materials testing. The Consultant shall be responsible for the accuracy, adequacy and content of such tests, surveying and reports.
- (b) The Consultant and its appropriate subconsultant shall review all survey and test results reports and shall follow the recommendation of the soils engineer or other subconsultant unless, in the exercise of appropriate professional judgment, the Consultant or appropriate subconsultant discovers, or should in the exercise of professional judgment discover, factors indicating the report or results are not reliable.
- (c) If any such inadequacy or any inconsistency, based upon such exercise of professional judgment, is noted the Consultant and/or its appropriate

subconsultant shall report such inconsistency or inadequacy promptly to the City and require such inadequacy or inconsistency to be addressed by the soils engineer, testing laboratory or land surveyor before any further use is put to the data.

- (d) The Consultant shall require all surveying, engineering and testing entities it selects to carry and maintain Comprehensive Auto Liability and Property Damage Insurance, General Commercial Liability and Property Damage Insurance and Professional Errors and Omissions coverage as required by the City's Office of Risk Management which will adequately protect the interests of the City and third parties from the acts and omissions of the testing entity.
- (e) The amount of surveying or testing, the cost, and the types of reports required must be approved by the Manager prior to the Consultant actually ordering any such work to be accomplished. Such approvals by the City shall be for purposes of compensation only and shall not relieve the Consultant of any responsibility for determining the scope and amount of surveying and testing necessary for the design of the project.
- (f) It is understood and agreed that this Agreement does not include the investigation, sampling, testing, planning, abatement design, and remediation management of asbestos or other hazardous waste material. Should the presence of asbestos or other hazardous waste material be known to exist on a specific project or if the Consultant shall observe the presence of asbestos or hazardous waste material on any project site during its performance of services under this Agreement, the Consultant shall notify the City in writing immediately.
- (g) Payment to the Consultant for such surveying, testing, and abatement shall not exceed the surveying and testing budget set forth in the project specific proposal for each project.

#### **2.09 Compliance with M/WBE Requirements.**

- (a) This Agreement is subject to Article III, Divisions 1 and 3 of Chapter 28, Denver Revised Municipal Code (D.R.M.C.), designated as Sections 28-31 to 28-36 and 28-52 to 28-90 D.R.M.C. (the "M/WBE Ordinance") and any Rules or Regulations promulgated pursuant thereto. The Consultant identified in its Proposal MBE and/or WBE firms with which it intends to subcontract under this Agreement, with a total participation level by such firms of 12%.
- (b) Under § 28-72 D.R.M.C., the Consultant has an ongoing, affirmative obligation to maintain for the duration of this Agreement, at a minimum, compliance with its originally achieved level of MBE and WBE participation upon which this Agreement was awarded, unless the City initiates a material alteration to the scope of work affecting MBEs or WBEs performing on this Agreement through change order, contract

amendment, force account, or as otherwise described in § 28-73 D.R.M.C. The Consultant acknowledges that:

- (1) It must establish and maintain records and submit regular reports, as required, which will allow the City to assess progress in achieving the M/WBE participation goal.
- (2) If change orders or any other contract modifications are issued under the Agreement, the Consultant shall have a continuing obligation to immediately inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract, upon any of the bases discussed in § 28-73, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.
- (3) If change orders or other contract modifications are issued under the contract, that include an increase in scope of work of this Agreement, whether by amendment, change order, force account or otherwise which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an M/WBE at the time of contract award, such change orders or contract modification shall be immediately submitted to DSBO for notification purposes. Those amendments, change orders, force accounts or other contract modifications that involve a changed scope of work that cannot be performed by existing project subconsultants or by the Consultant shall be subject to a goal for M/WBEs equal to the original goal on the contract which was included in the proposal. The Consultant shall satisfy such goal with respect to such changed scope of work by soliciting new M/WBEs in accordance with § 28-73, D.R.M.C., as applicable, or the Consultant must show each element of modified good faith set out in § 28-75(c) D.R.M.C. The Consultant shall supply to the director the documentation described in § 28-75-(c) D.R.M.C. with respect to the increased dollar value of the contract.
- (4) Failure to comply with these provisions may subject the Consultant to sanctions set forth in the M/WBE Ordinance. Should any questions arise regarding specific circumstances, the Consultant must consult the M/WBE Ordinance or contact the Project's designated DSBO representative at (720) 913-1999

### **SECTION 3 – COMPENSATION, PAYMENT, AND FUNDING**

The City shall compensate the Consultant for its service performed and expenses incurred under this Agreement and each Task Order as follows.

**3.01 Basic Services:** The City agrees to pay the Consultant, as compensation for any basic services rendered for a particular Project, either a maximum basic services fee, to be set forth in each approved Project, proposals prepared prior to commencement of any and all work under this Agreement, or an amount based on the Consultant's periodic invoices, whichever is less.



**3.02 Reimbursable Expenses:** Unless expressly authorized by the City as part of any approved project proposal or specified in Exhibit B, the City will not compensate the Consultant for expenses such as postage, travel, mileage, telephone, reproduction and messenger service costs incurred in connection with Work performed under this Agreement. Such costs are, in all such instances, included in the hourly rates paid by the City. Reproduction of submittals requested by the City including such items as end-of-phase reports, drawings, bid documents, record drawing reproductions, etc. are not included in the hourly rates, and will be itemized as part of each on-call work order as a not-to-exceed reproducible expense.

**3.03 Surveying and Testing:** The Consultant shall be reimbursed its costs for any previously approved surveying, utility locating and testing services it provides for any assigned project, subject to the terms and conditions set forth herein and any surveying, utility locating and testing budget limits for that specific project.

**3.04 Additional Services:** The Consultant shall be compensated for any previously approved additional services performed for any assigned project, subject to the terms and conditions set forth herein and an additional services budget limits for that specific project.

**3.05 Special Services:** Subject to prior approval of such costs by the Manager, the Consultant shall be paid its actual costs for special supplies or services and when applicable for Consultant's actual time spent overseeing work not included within either **Exhibit A** or any other exhibits for individual projects subsequently incorporated herein, but which the City specifically directs the Consultant to provide under this Agreement.

**3.06 Invoices:** The Consultant shall invoice and be paid monthly in proportion to the progress of the Work on each assigned project. Such invoices shall reflect the Consultant's actual hours, sub-consultant costs and reimbursable costs, and shall be based on the hourly rates or other rates for services contained in Exhibit B. The Consultant shall maintain hourly records of the time worked by its personnel and subconsultants, records of all allowable reimbursable expenses, and records of expendable supplies and services as necessary to support any audits by the City, and shall bill the City monthly for fees and costs accrued during the preceding month. The Consultant's invoice shall be separated as necessary to show direct charges to specific projects and to distinguish fees and expenses. Upon submission of such invoices to the City Project Manager, and approval by the City, payment shall issue. Final payment to the Consultant, for each assigned project, shall not be made until after the project is accepted, all guarantees, certificates of completion, and Record Drawings and support documentation are delivered to the City, and the duties agreed to in the approved project proposal for that project are otherwise fully performed by the Consultant. No deductions shall be made from the Consultant's compensation on account of penalty, liquidated damages or other sums withheld from payments to any assigned project contractor.

**3.07 Maximum Contract Amount; Funding:**

- (a) It is understood and agreed by the parties hereto that payment or reimbursement of all kinds to the Consultant, for all Work performed under this Agreement, shall not exceed a maximum of **TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00)**, with a yearly expenditure not to exceed **FIVE HUNDRED THOUSAND**

**DOLLARS (\$500,000.00).** In no event shall the maximum payment to the Consultant, for all work and services performed throughout the entire term of this Agreement exceed the contract maximum amount set forth above.

- (b) Notwithstanding any other term, provision, or condition herein, all payment obligations under this Agreement shall be limited to the funds duly and lawfully appropriated and encumbered or otherwise made available by the Denver City Council for the particular projects assigned to the Consultant under this Agreement for the particular year(s) in which this Agreement is in effect, and paid into the Treasury of the City. As of the date of this Agreement, no funds have been appropriated for this Agreement. Instead, it is the City's intent to appropriate the funds necessary to compensate the Consultant for the work it performs on any assigned project, at the time it accepts each proposal for a specific project. The Manager of Public Works, upon reasonable written request, will advise the Consultant in writing of the total amount of appropriated and encumbered funds which are or remain available for payment for all work by the Consultant on a specific project.
- (c) The issuance of any form of order or directive by the City which would cause the aggregate amount payable to the Consultant for a specific project to exceed the amount appropriated for the Consultant's work on a specific project is expressly prohibited. In no event shall the issuance of any change order or other form of order or directive by the City be considered valid or binding if it requires additional compensable work to be performed, which work will cause the aggregate amount payable for such work to exceed the amount appropriated and encumbered, unless and until such time as the Consultant has been advised in writing by the Manager of Public Works that a lawful appropriation sufficient to cover the entire cost of such additional work, has been made. It shall be the responsibility of the Consultant to verify that the amounts already appropriated for the Consultant's Work on a project are sufficient to cover the entire cost of such Work, and any work undertaken or performed in excess of the amount appropriated is undertaken or performed in violation of the terms of this Agreement, without the proper authorization for such work, and at the Consultant's own risk and sole expense.

#### **SECTION 4 – TERM AND TERMINATION**

**4.01 Term.** The term of this Agreement shall commence on March 1, 2011, and shall expire five years from this date, unless sooner terminated or extended by written amendment. The Consultant shall complete any task orders in progress as of the expiration date of this agreement and the term will extend until the work is completed or earlier terminated by the Manager.

**4.02 Termination.**

- (a) Nothing herein shall be construed as giving the Consultant the right to perform the services contemplated under this Agreement beyond the time when its services become unsatisfactory to the Manager.
- (b) The Manager may terminate this Agreement for cause at any time if the Consultant's services become unsatisfactory, in the sole discretion of the Manager. The City shall have the sole discretion to permit the Consultant to remedy the cause of a contemplated termination for cause without waiving the City's right to terminate the Agreement.
- (c) In the event of a termination for cause, or in the event the Consultant becomes unable to serve under this Agreement, the City may take over work to be done under this Agreement and prosecute the work to the completion by contract or otherwise, and the Consultant shall be liable to City for all reasonable cost in excess of what the City would have paid the Consultant had there been no termination for cause.
- (d) The City may, for convenience, cancel and terminate this Agreement by giving not less than thirty (30) days' prior written notice to the Consultant, which notice shall state the date of cancellation and termination.
- (e) If the Consultant's services are terminated, postponed or revised, or if the Consultant shall be discharged before all the work and services contemplated have been completed, or if the project is, for any reason, stopped or discontinued, the Consultant shall be paid only for the portion of work or services which has been satisfactorily completed at the time of such dismissal, termination, cancellation, postponement, revision or stoppage.
- (f) All drawings, specifications, and other documents relating to the design or administration of work completed or partially completed shall be delivered by the Consultant to the City in the event of any dismissal, termination, cancellation, postponement, revision or stoppage.
- (g) In the event of any dismissal, termination, cancellation, postponement, revision or stoppage, the Consultant shall cooperate in all respects with the City. Such cooperation shall include, but not be limited to, delivery of drawings, specifications, and other documents referred to herein, and assisting the City during a transition to another Consultant, if applicable.

## **SECTION 5 – GENERAL PROVISIONS**

### **5.01 City's Responsibilities.**

- (a) The City shall provide available information regarding its requirements for each project, including related budgetary information, and shall cooperate fully with the Consultant at all times. However, the City does not guarantee the accuracy of any such information and assumes no liability therefore. The Consultant shall notify City in writing of any information or requirements provided by the City which the Consultant believes to be inaccurate or inappropriate to the design or construction of the project.

- (b) If the City observes or otherwise becomes aware of any fault or defect in the project or non-conformance with Contract Documents, it shall give prompt notice thereof to Consultant.

**5.02 Ownership of Documents:**

- (a) The City shall have title and all intellectual and other property rights, in and to all phased and final engineering documents, and all data used in the development of the same, including the results of any tests, surveys or inspections at each project site, and all photographs, drawings, drafts, studies, estimates, reports, models, notes and any other materials or work products, whether in electronic or hard copy format, created by the Consultant pursuant to this Agreement, in preliminary and final forms and on any media whatsoever (collectively, the "Documents"), whether the project for which the Documents were created is executed or not. The Consultant shall identify and disclose, as requested, all such Documents to the City.
- (b) To the extent permitted by the U.S. Copyright Act, 17 USC § 101 et seq., as the same may be amended from time to time, the Documents are a "work made for hire," and all ownership of copyright in the Documents shall vest in the City at the time the Documents are created. To the extent that the Documents are not a "work made for hire," the Consultant hereby assigns and transfers all right, title and interest in and to the Documents to the City, as of the time of the creation of the Documents, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark, and other intellectual property rights in perpetuity.
- (c) The Consultant shall provide (and cause its employees and subcontractors to provide) all assistance reasonably requested in securing for the City's benefit any patent, copyright, trademark, service mark, license, right or other evidence of ownership of such Documents, and shall provide full information regarding the Documents and execute all appropriate documentation in applying for or otherwise registering, in the City's name, all rights to such Documents.
- (d) The Consultant agrees to allow the City to review any of the procedures used in performing the work and services hereunder, and to make available for inspection the field notes and other documents used in the preparation for and performance of any of the services performed hereunder.
- (e) The Consultant shall be permitted to retain reproducible copies of all of the Documents for their information and reference, and the originals of all of the Documents, including all AutoCAD files, shall be delivered to the City promptly upon completion thereof, or if authorized by the City's Project Manager, upon termination or expiration of this Agreement.

**5.03 Taxes and Licenses:** The Consultant shall promptly pay, when they are due, all taxes, excises, license fees and permit fees of whatever nature applicable to the work and services which it performs under this Agreement, and shall take out and keep current all required

municipal, county, state or federal licenses required to perform its services under this Agreement. The Consultant shall furnish the Manager, upon request, duplicate receipts or other satisfactory evidence showing or certifying to the proper payment of all required licenses and/or registrations and taxes. The Consultant shall promptly pay all owed bills, debts and obligations it incurs performing work under this Agreement and shall not allow any lien, verified claim, mortgage, judgment or execution to be filed against land, facilities or improvements owned or beneficially owned by the City as a result of such bills, debts or obligations.

**5.04 Consultant's Records:** Records of the Consultant's direct personnel, consultant and reimbursable expenses pertaining to this Agreement and records of accounts between the City and the Consultant shall be kept on a generally recognized accounting basis. The Consultant agrees that any duly authorized representative of the City, including the City Auditor, shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any books, documents, papers and records of the Consultant, involving transactions related to this Agreement.

**5.05 Assignment and Subcontracting:** The City is not obligated or liable under this Agreement to any party other than the Consultant named herein. The Consultant understands and agrees that it shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the City to such assignment or subcontracting. Any attempt by the Consultant to assign or subcontract its rights hereunder without such prior written consent of the City shall, at the option of the City, automatically terminate this Agreement and all rights of the Consultant hereunder. Such consent may be granted or denied at the sole and absolute discretion of the City. In the event any such subcontracting shall occur, with the City's approval, such action shall not be construed to create any contractual relationship between the City and such subcontractor, and the Consultant named herein shall in any and all events be and remain responsible to the City according to the terms of this Agreement.

**5.06 No Discrimination in Employment:** In connection with the performance of work under this Agreement, the Consultant agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability. The Consultant agrees to insert the foregoing provision in all subcontracts hereunder.

**5.07 Insurance:**

(a) General Conditions: Consultant agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Consultant shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement stating "Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202.

Such written notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior." Additionally, Consultant shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Consultant. Consultant shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Consultant. The Consultant shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

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

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

(d) **Waiver of Subrogation:** For all coverages, Consultant's insurer shall waive subrogation rights against the City.

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

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

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

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

(i) Professional Liability: Consultant shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

(j) Additional Provisions:

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

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs in excess of policy limits;
- (ii) A severability of interests, separation of insureds or cross liability provision; and
- (iii) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(2) For claims-made coverage:

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

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

#### **5.08 Indemnification:**

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

- (b) Consultant's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether suit has been filed and even if Consultant is not named as a Defendant.
- (c) Consultant will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.
- (d) Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Consultant under the terms of this indemnification obligation. The Consultant shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.
- (e) This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

**5.09 Colorado Governmental Immunity Act:** The parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations (presently \$150,000 per person, \$600,000 per occurrence) and all other rights, immunities and protection provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

**5.10 Contract Documents; Order of Precedence.** This Agreement consists of Sections 1 through 5, which precede the signature page, and the following attachment, which is incorporated herein and made a part hereof by reference:

Exhibit A	Consultant's Scope of Work
Exhibit B	Consultant's Rates
Exhibit C	Consultant's Key Personnel
Exhibit D	ACORD Insurance Certificate

In the event of an irreconcilable conflict between a provision of Sections 1 through 5 and the listed attachments, or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which provision shall control to resolve such conflict, is as follows, in descending order:

Sections 1 through 5  
Exhibit D  
Exhibit C  
Exhibit B  
Exhibit A

**5.11 When Rights and Remedies Not Waived:** In no event shall any payment by the City constitute a waiver of any breach of covenant or default which may then exist on the part of the Consultant. No assent, expressed or implied, to any breach of the Agreement shall be held to be a waiver of any later or other breach.



**5.12 Governing Law; Venue:** This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted or promulgated pursuant to the Charter and Code, including any amendments. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

**5.13. Conflict of Interest:**

- (a) The Consultant has a continuing duty to disclose, in writing, any actual or potential conflicts of interest including work the Consultant is performing or anticipates performing for other entities on the same or interrelated projects. In the event that Consultant fails to disclose in writing actual or potential conflicts, the Manager, in his sole discretion, may terminate the applicable task order or the Agreement.
- (b) The parties agree that no employee of the City shall have any personal or beneficial interest in the services or property described herein, and the Consultant further agrees not to hire or contract for services with any employee or officer of the City which would be in violation of the Revised Municipal Code Chapter 2, Article IV, Code of Ethics or Denver City Charter provisions 1.2.9 and 1.2.12.
- (c) The Consultant agrees that it will not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. The Consultant represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Consultant by placing the Consultant's own interests, or the interests of any party with whom the Consultant has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after it has given the Consultant written notice which describes the conflict. The Consultant shall have thirty (30) days after the notice is received to eliminate or cure the conflict of interest in a manner that is acceptable to the City.

**5.14 No Third Party Beneficiaries:** Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Consultant, and nothing contained in this Agreement shall give or allow any claim or right of action by any other or third person under this Agreement. It is the express intention of the parties that any person other than the City or the Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**5.15 Time is of the Essence:** The parties agree that in the performance of the terms, conditions and requirements of this Agreement by the Consultant, time is of the essence.

**5.16 Taxes, Charges and Penalties:** The City and County of Denver shall not be liable for the payment of taxes, late charges, or penalties of any nature except as provided in the City's Prompt Payment Ordinance.

**5.17 Proprietary or Confidential Information:**

- (a) City Information: The Consultant acknowledges and accepts that, in performance of its work under the terms of this Agreement, the Consultant may have access to Proprietary Data or confidential information which may be owned or controlled by the City and that the disclosure of such data or information may be damaging to the City or third parties. As such, the Consultant agrees that all information provided or otherwise disclosed by the City to the Consultant be held in confidence and used only in the performance of its obligations under this Agreement. The Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would to protect its own proprietary or confidential data. "Proprietary Data" shall mean geographic materials or Geographic Information Systems ("GIS") data owned by the City and County of Denver including but not limited to maps, computer programs, aerial photography, methodologies, software, diagnostics and documents; or any other materials or information which may be designated or marked "Proprietary" or "Confidential" and provided to or made available to the Consultant by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.
- (b) Consultant's Information: The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act, C.R.S. 24-72-201, et seq., and that in the event of a request to the City for disclosure of such information, the City shall advise the Consultant of such request in order to give the Consultant the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Consultant agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. The Consultant further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Consultant's intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

**5.18 Use, Possession or Sale of Alcohol or Drugs:** The Consultant, its officers, agents, and employees shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City's barring the Consultant from City facilities or participating in City operations.

**5.19 No Employment of Illegal Aliens to Perform Work Under the Agreement:**

- (a) This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").
- (b) The Consultant certifies that:
  - (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
  - (2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.
- (c) The Consultant also agrees and represents that:
  - (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
  - (2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
  - (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
  - (4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Consultant to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
  - (5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Consultant will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.
  - (6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and

Employment under authority of § 8-17.5-102(5), C.R.S. or the City Auditor, under authority of D.R.M.C. 20-90.3.

- (d) The Consultant is liable for any violations as provided in the Certification Ordinance. If Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Consultant from submitting bids or proposals for future contracts with the City.

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

**5.21 Waiver of C.R.S. 13-20-802, et seq.:** The Consultant specifically waives all the provisions of Chapter 8 of Article 20 of Title 13, Colorado Revised Statutes (also designated C.R.S. 13-20-802 *et seq.*) relating to design defects in any project under this Agreement.

**5.22 Survival of Certain Contract Provisions.** The parties understand and agree that all terms and conditions of this Agreement, together with the exhibits and attachments hereto, which, by reasonable implication, contemplate continued performance or compliance beyond the termination of this Agreement, (by expiration of the term or otherwise), shall survive such termination and shall continue to be enforceable as provided herein. Without limiting the generality of the foregoing, the Consultant's obligations for the provision of insurance and to indemnify the City shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

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

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

dispute as to the legal authority of either Consultant or the person signing the Agreement to enter into this Agreement.

**5.25 Notices.** Notices, concerning the termination of this Contract, notices of alleged or actual violations of the terms or conditions of this Contract, and other notices of similar importance, including changes to the person to be notified or their addresses, shall be made:

to the City:	Manager of Public Works 201 West Colfax Avenue, Dept. 1110 Denver, Colorado 80202
with a copy to:	Assistant City Attorney 201 West Colfax Avenue, Dept. 1207 Denver, Colorado 80202
to the Consultant:	Enginuity Engineering Solutions, LLC 9137 East Mineral Circle, Suite 180 Centennial, Colorado 80112 Attention: Jeffrey W. Sickles, PE, CFM

All notices shall be in writing and provided by either personal delivery or certified mail, return receipt requested. All notices are effective upon personal delivery or upon placing the notice in the United States mail. The addresses may be changed by the Parties by written notice.

**5.26 Severability:** It is understood and agreed by the parties hereto that, if any part, term, or provision of this Agreement, except for the provisions of this Agreement requiring prior appropriation and limiting the total amount to be paid by the City, is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

**5.27 Agreement as Complete Integration-Amendments:** This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion or other amendment shall have any force or effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement executed by the parties and signed by the signatories to the original Agreement. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

**5.28 Counterparts of this Agreement:** This Agreement will be executed in two (2) counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument.

**REMAINDER OF PAGE LEFT INTENTIONALLY BLANK**

IN WITNESS WHEREOF, the City and the Consultant have executed this Agreement as of the day and year first above written.

**CITY AND COUNTY OF DENVER**

**ATTEST:**

\_\_\_\_\_  
STEPHANIE Y. O'MALLEY, Clerk and  
Recorder, Ex-Officio Clerk of the  
City and County of Denver

By: \_\_\_\_\_  
Guillermo V. Vidal, Mayor

**RECOMMENDED AND APPROVED:**

**APPROVED AS TO FORM:**  
DAVID R. FINE, Attorney  
For the City and County of Denver

By:   
Manager of Public Works

**REGISTERED AND COUNTERSIGNED:**

By: \_\_\_\_\_  
Assistant City Attorney

By: \_\_\_\_\_  
Manager of Finance  
Contract Control No: OC 11008

By: \_\_\_\_\_  
DENNIS GALLAGHER, Auditor of the  
City and County of Denver

**"CITY"**

**ENGINEUITY ENGINEERING  
SOLUTIONS, LLC**

By:   
Kimberly Stewart, President/CEO  
**"CONSULTANT"**

## **EXHIBIT A**

### **SCOPE OF WORK**

#### **A. Project Description**

This contract (or these contracts) will provide on-call professional engineering services to support the Wastewater Capital Projects Management program, as well as provide general engineering services throughout Public Works, as requested. These services include, but are not limited to: hydraulic and hydrologic studies, feasibility analyses and full project design for storm sewer basins and facilities; sanitary sewer system analyses and full project design; utility coordination, relocation and permitting; surveying; traffic engineering; geotechnical investigations; and other Civil Engineering design services.

Numerous firms may be selected from the RFP. Task orders will be issued on a variety of projects and scope. Estimated expenditure for each consultant team's service contract is \$500,000/year for a one year term with an option to renew each year for a total of five (5) years.

#### **B. Summary of Required Services**

The following is a list of anticipated general engineering services and work scope needed through this (these) on-call contracts:

##### **Planning and Design Services**

1. Hydraulic and Hydrologic engineering services to include planning level analyses, feasibility studies, and full project design services
2. Sanitary sewer system analyses and full project design services
3. Water quality analyses and design
4. Environmental assessments and preliminary testing
5. Infrastructure planning and programming services
6. Utility relocation, design and coordination (including permitting)
7. Plan review to include storm and sanitary sewer systems
8. Cost estimation and specification preparation for provided services
9. Soil borings and analyses
10. Roadway and pavement design
11. Full range of structural design services for Wastewater and Transportation infrastructure - steel, timber, and concrete (including cast-in-place, pre-stressed or post-tensioned concrete design; retaining walls, piers, columns, bridges, pedestrian crossings, culverts, abutments and other related structures)
12. Traffic engineering, analysis, signing, striping, signals and control
13. Land surveying to include topographical, improvement and design survey services
14. Landscape architecture, irrigation design and urban/streetscape design

##### **Construction Services**

1. Monumentation and construction surveying services
2. Geotechnical engineering, materials testing, environmental and hazardous materials analysis
3. Plan reviews and constructability analysis
4. Construction Engineering and Project Management assistance to include constructability reviews and phasing
5. Cost estimation and review
6. Inspection Services: utility installation and rehabilitation (storm/sanitary infrastructure), asphalt, concrete, bridge condition, etc.

#### **Miscellaneous Services**

1. Database services, program development and GIS interfacing
2. Project and resource scheduling
3. Clerical, and contract administration
4. Traffic signal and signal system design to include electrical and lighting engineering
5. Special district creation/management
6. Public involvement, outreach
7. Coordination with City agencies and utility companies
8. Data collection and input for infrastructure or other assets as needed
9. Parking studies, traffic and safety analyses



**EXHIBIT B**  
**CONSULTANT'S RATES**

Attachment 3  
**Enginuity Engineering Solutions**  
**2010 Hourly Rate Schedule**

Title	Hourly Rates
Principal Engineer	\$130.00
Project Manager II	\$115.00
Project Manager I	\$110.00
Senior Engineer IV	\$105.00
Senior Engineer III	\$100.00
Senior Engineer II	\$95.00
Senior Engineer I	\$90.00
Engineer IV	\$80.00
Engineer III	\$75.00
Engineer II	\$70.00
Engineer I	\$65.00
Sr. CADD Technician	\$75.00

The Consultant's multiplier, which when multiplied by the direct labor rate yields the above Hourly Billing Rate, is estimated between a 1.7 and 2.0. We are a relatively new firm and still developing audited overhead rates.

### Reimbursable Expenses

The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of transportation and living expenses of the Consultant's personnel traveling outside of Denver Metropolitan area, when authorized by the City under this Agreement.
2. Actual cost of long distance telephone calls and/or mobile phone service plans.
3. Actual cost of reproduction of drawings and specifications.
4. Expendable supplies and services, such as aerial photography other than those normally

The Consultant will be required to submit a complete list of reimbursable items for all of the Consultant's charges. A typical list of reimbursable items is noted herein and can be modified by the Consultant to conform to the present needs and operations.

Reimbursable Expenses	Billing Rate
Mileage	\$0.55/mile
B&W Plots	\$1/square foot
Color Plots	\$5/square foot
Copies (B&W) 8-1/2 x 11	\$0.10/copy
Copies (Color) 8-1/2 x 11	\$1.00/copy
Copies (B&W) 11 x 17	\$0.15/copy
Copies (Color) 11 x 17	\$1.50/copy
Outside - Materials/Supplies/Services	Cost plus 10%
Subconsultants	Cost plus 10%



ATTACHMENT 3

HOURLY RATE SCHEDULE

<u>Personnel Clarification*</u>	<u>Billing Rate per hour (\$)</u>
Principals	\$195
Senior Project Engineers	\$155
Project Engineers	\$125
Environmental Engineers	\$115
Project Controllers	\$85
Landscape Architects	\$90
Senior CAD Technicians	\$105
CAD Technicians	\$90
Drafters	\$80
Real Estate Appraisers	
Survey Chief	
Surveyors (Three-man Crew)	
Surveyors (Two-man Crew)	
Project Inspector	\$95

The Consultant's multiplier, which when multiplied by the direct labor rate yields the above Hourly Billing Rate, is 3.05.



ATTACHMENT 3 (Cont'd)  
Reimbursable Expenses

The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of transportation and living expenses of the Consultant's personnel traveling outside of Denver Metropolitan area, when authorized by the City under this Agreement.
2. Actual cost of long distance telephone calls and/or mobile phone service plans.
3. Actual cost of reproduction of drawings and specifications.
4. Expendable supplies and services, such as aerial photography other than those normally used in an engineering office, provided especially under this Agreement for the Benefit of the City-actual cost plus Ten Percent (10%).

The Consultant will be required to submit a complete list of reimbursable items for all of the Consultant's charges. A typical list of reimbursable items is noted herein and can be modified by the Consultant to conform to the present needs and operations.

List of Expenses

<u>Item</u>	<u>Charge Rate</u>
Subsistence outside Metro Area	\$ _____ / day
Mileage outside Metro Area	\$ __.50__ / mile
Computer	\$ _____ / hour
Copies (8 1/2 x 11") – B&W	\$ __.10__ / each
Copies (11 x 17") – B&W	\$ __.15__ / each
Copies (8 1/2 x 11") – Color	\$ __1.00__ / each
Copies (11 x 17") – Color	\$ __1.50__ / each
Outside – Materials/Supplies/Services	Cost plus 10%
Subconsultants	Cost plus 10%

Alex Brown Consulting

**HOURLY RATE SCHEDULE**

<u>Personnel Clarification*</u>	<u>Billing Rate per hour (\$)</u>
Principals	<u>\$200</u>

The Consultant's multiplier, which when multiplied by the direct labor rate yields the above Hourly Billing Rate, is \_\_\_none applicable. We are a small firm with one Principal and charge an hourly rate of \$200/hour.

**ATTACHMENT 3 (Cont'd)**  
**Reimbursable Expenses**

The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of transportation and living expenses of the Consultant's personnel traveling outside
2. Actual cost of long distance telephone calls and/or mobile phone service plans.
3. Actual cost of reproduction of drawings and specifications.
4. Expendable supplies and services, such as aerial photography other than those normally used in an engineering office, provided especially under this Agreement for the Benefit of the City-actual cost plus Ten Percent (10%).

The Consultant will be required to submit a complete list of reimbursable items for all of the Consultant's charges. A typical list of reimbursable items is noted herein and can be modified by the Consultant to conform to the present needs and operations.

**List of Expenses**

<u>Item</u>	<u>Charge Rate</u>
Subsistence outside Metro Area	IRS allowed rate
Mileage outside Metro Area	IRS allowed rate
Copies (b/w, 8 1/2 x 11")	\$0.10/ each
Copies (b/w, 11" x 17")	\$0.15/ each
Plan Reproduction (24"x36", ANSI D)	\$3.50/ page
Outside - Materials/Supplies/Services	Cost plus 10%

## Diverse Project Consultants 2010 HOURLY RATE SCHEDULE

<u>Personnel Classification</u>	<u>Billing Rate per hour (\$)</u>
Principals	\$110
Project Engineers and Senior Construction Managers	\$95
Construction Coordinators/ Observers	\$75
Contract Administration Assistant	\$60

A Consultant's multiplier, which when multiplied by the direct labor rate yields the above Hourly Billing Rate, is not yet applicable for our small firm in a first year of operation.

### Reimbursable Expenses

The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of transportation and living expenses of the Consultant's personnel traveling outside of Denver Metropolitan area, when authorized by the City under this Agreement.
2. Actual cost of long distance telephone calls and/or mobile phone service plans.
3. Actual cost of reproduction of drawings and specifications.
4. Expendable supplies and services, such as aerial photography other than those normally used in an engineering office, provided especially under this Agreement for the Benefit of the City-actual cost plus Ten Percent (10%).

The Consultant will be required to submit a complete list of reimbursable items for all of the Consultant's charges. A typical list of reimbursable items is noted herein and can be modified by the Consultant to conform to the present needs and operations.

### List of Expenses

<u>Item</u>	<u>Charge Rate</u>
Subsistence outside Metro Area	IRS allowed rate
Mileage outside Metro Area	IRS allowed rate
Copies (b/w, 8 1/2 x 11")	\$0.10/ each
Copies (b/w, 11" x 17")	\$0.15/ each
Plan Reproduction (24"x36", ANSI D)	\$3.50/ page
Outside - Materials/Supplies/Services	Cost plus 10%



9570 Kingston Court, Suite 310  
 Englewood, CO 80112  
 Phone 303/773-1605  
 Fax 303/773-3297  
 www.hclengineering.com

### STANDARD BILLING RATE SCHEDULE 2010

PERSONNEL CLASSIFICATION	BILLING RATE/ HOUR
Principal	\$130.00
Project Manager	\$110.00
Project Engineer	\$ 90.00
Senior Designer	\$ 80.00
CAD Operator	\$ 70.00
Office/Field Engineer	\$ 80.00
Survey Manager	\$ 115.00
Survey Technician	\$ 75.00
Survey Crew (2-Man)	\$ 125.00
GPS Robotics	\$ 105.00
Construction Manager	\$ 105.00
Construction Field Superintendent / Inspector	\$ 75.00
Administrative	\$ 50.00

### SCHEDULE OF REIMBURSABLE EXPENSES

EXPENSE OR SERVICE	BILLING RATE
Mileage (outside the Denver metropolitan area)	\$0.50/mi
Photocopies (8½" x 11", 8½" x 14". Etc.) not routine to projects or reports	\$0.20/ea
Diazo/Blue-line, and Blackline Prints	\$0.20/sf
Xerox Copies of Printing (larger format sheets 24x36)	\$2.00/sht
Diazo or Xerox Reproduction on Mylar	\$25.00/sht
Diazo or Xerox Reproduction Velum	\$10.00/sht
Outside Materials/Services/Supplies	Cost + 10%





### ATTACHMENT 3

#### HOURLY RATE SCHEDULE

<u>Personnel Clarification*</u>	<u>Billing Rate per hour (\$)</u>
Principals	<u>\$145/hour</u>
Senior Project Engineers	<u></u>
Project Engineers	<u></u>
Environmental Engineers	<u></u>
Project Managers (non-licensed)	<u></u>
Landscape Architects	<u></u>
Senior CAD Technicians	<u></u>
CAD Technicians	<u></u>
Drafters	<u></u>
Real Estate Appraisers	<u></u>
Survey Chief	<u></u>
Surveyors (Three-man Crew)	<u></u>
Surveyors (Two-man Crew)	<u></u>
Project Inspector	<u></u>

\* These are examples - please list your firms' actual categories to be used on this work.

The Consultant's multiplier, which when multiplied by the direct labor rate yields the above Hourly Billing Rate, is none applicable. We are a small firm with two Principals and charge an hourly rate of \$145/hour,



**ATTACHMENT 3 (Cont'd)**  
**Reimbursable Expenses**

The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of transportation and living expenses of the Consultant's personnel traveling outside of Denver Metropolitan area, when authorized by the City under this Agreement.
2. Actual cost of long distance telephone calls and/or mobile phone service plans.
3. Actual cost of reproduction of drawings and specifications.
4. Expendable supplies and services, such as aerial photography other than those normally used in an engineering office, provided especially under this Agreement for the Benefit of the City-actual cost plus Ten Percent (10%).

The Consultant will be required to submit a complete list of reimbursable items for all of the Consultant's charges. A typical list of reimbursable items is noted herein and can be modified by the Consultant to conform to the present needs and operations.

**List of Expenses**

<u>Item</u>	<u>Charge Rate</u>
Subsistence outside Metro Area	\$ _____ / day
Mileage outside Metro Area	\$ __.50 ____ / mile
Computer	\$ _____ / hour
Copies (8 1/2 x 11")	\$ _____ / each
Copies (8 1/2 x 14")	\$ _____ / each
Red-line copies	\$ _____ / S.F.
Plan Reproduction (24"x36", ANSI D)	\$ _____ / page
Mylar	\$ _____ /S.F.
Sepias	\$ _____ /S.F.
Outside - Materials/Supplies/Services	Cost plus 10%
Subconsultants	Cost plus 10%



### ATTACHMENT 3

#### HOURLY RATE SCHEDULE

<u>Personnel Clarification*</u>	<u>Billing Rate per hour (\$)</u>
Principals	<u>120.00</u>
Senior Landscape Architect	<u>90.52</u>
Project Landscape Architect	<u>66.40</u>
Environmental Engineers	<u></u>
Project Managers (non-licensed)	<u></u>
Landscape Architects	<u></u>
Senior CAD Technicians	<u></u>
CAD Technicians	<u>62.33</u>
Drafters	<u></u>
Real Estate Appraisers	<u></u>
Survey Chief	<u></u>
Surveyors (Three-man Crew)	<u></u>
Surveyors (Two-man Crew)	<u></u>
Project Inspector	<u></u>

\* These are examples - please list your firms' actual categories to be used on this work.

The Consultant's multiplier, which when multiplied by the direct labor rate yields the above Hourly Billing Rate, is not applicable. We are a small firm with four staff members and charge a standard hourly rate as shown above.

**ATTACHMENT 3 (Cont'd)**  
**Reimbursable Expenses**



The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of transportation and living expenses of the Consultant's personnel traveling outside of Denver Metropolitan area, when authorized by the City under this Agreement.
2. Actual cost of long distance telephone calls and/or mobile phone service plans.
3. Actual cost of reproduction of drawings and specifications.
4. Expendable supplies and services, such as aerial photography other than those normally used in an engineering office, provided especially under this Agreement for the Benefit of the City-actual cost plus Ten Percent (10%).

The Consultant will be required to submit a complete list of reimbursable items for all of the Consultant's charges. A typical list of reimbursable items is noted herein and can be modified by the Consultant to conform to the present needs and operations.

**List of Expenses**

<u>Item</u>	<u>Charge Rate</u>
Subsistence outside Metro Area	\$_____/ day
Mileage outside Metro Area	\$_.50___/ mile
Computer	\$_2.00___/ hour
Copies (8 1/2 x 11")	\$_.10___/ each
Copies (8 1/2 x 14")	\$_.15___/ each
Red-line copies	\$_5.39___/ page
Plan Reproduction (24"x36", ANSI D)	\$_.06___/ S.F.
Mylar	\$_3.71___/S.F.
Sepias	\$2.23/S.F.
Outside - Materials/Supplies/Services	Cost plus 10%
Subconsultants	Cost plus 10%



### ATTACHMENT 3

#### SAN ENGINEERING HOURLY RATE SCHEDULE

<u>Personnel Clarification*</u>	<u>Billing Rate per hour (\$)</u>
Principals	\$112.00
Senior Project Engineers	\$112.00
Project Engineers	\$104.00
Environmental Engineers	_____
Project Managers (non-licensed)	_____
Landscape Architects	_____
Senior CAD Technicians	\$82.00
CAD Technicians	\$78.00
Drafters	_____
Real Estate Appraisers	_____
Survey Chief	_____
Surveyors (Three-man Crew)	_____
Surveyors (Two-man Crew)	_____
Project Inspector	\$90.00

\* These are examples - please list your firms' actual categories to be used on this work.

The Consultant's multiplier, which when multiplied by the direct labor rate yields the above Hourly Billing Rate, is \_\_\_\_none applicable.

**ATTACHMENT 3 (Cont'd)  
San Engineering Reimbursable Expenses**

The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of transportation and living expenses of the Consultant's personnel traveling outside of Denver Metropolitan area, when authorized by the City under this Agreement.
2. Actual cost of long distance telephone calls and/or mobile phone service plans.
3. Actual cost of reproduction of drawings and specifications.
4. Expendable supplies and services, such as aerial photography other than those normally used in an engineering office, provided especially under this Agreement for the Benefit of the City-actual cost plus Ten Percent (10%).

The Consultant will be required to submit a complete list of reimbursable items for all of the Consultant's charges. A typical list of reimbursable items is noted herein and can be modified by the Consultant to conform to the present needs and operations.

**List of Expenses**

<u>Item</u>	<u>Charge Rate</u>
Subsistence outside Metro Area	N/A
Mileage outside Metro Area	\$.50/ mile
Computer	N/A
Copies (8 1/2 x 11")	\$0.10/ each
Copies (8 1/2 x 14")	\$0.10/ each
Red-line copies	\$0.15/ S.F.
Plan Reproduction (24"x36", ANSI D)	\$2.75/ page
Mylar	At Cost
Sepias	At Cost
Outside - Materials/Supplies/Services	Cost plus 10%
Subconsultants	Cost plus 10%

## HOURLY RATE SCHEDULE

Yeh and Associates, Inc.

<u>Personnel Clarification*</u>	<u>Billing Rate per hour (\$)</u>
Principal	<u>\$150</u>
Project Manager	<u>\$135</u>
Sr. Engineer/Geologist	<u>\$110</u>
Graphic Specialist	<u>\$120</u>
Project Engineer/Geologist	<u>\$ 95</u>
Staff Engineer/Geologist	<u>\$ 75</u>
Sr. Field Inspector	<u>\$ 95</u>
Field Inspector	<u>\$ 80</u>
Sr. Field Engineer/Technician	<u>\$ 75</u>
Field Engineering Technician	<u>\$ 65</u>
Drafter	<u>\$ 65</u>
Lab Technician	<u>\$60</u>

\* These are examples - please list your firms' actual categories to be used on this work.

The Consultant's multiplier, which when multiplied by the direct labor rate yields the above Hourly Billing Rate, is 2.9

\*\*\*\*\*

**ATTACHMENT 3 (Cont'd)**  
**Reimbursable Expenses**

The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of transportation and living expenses of the Consultant's personnel traveling outside of Denver Metropolitan area, when authorized by the City under this Agreement.
2. Actual cost of long distance telephone calls and/or mobile phone service plans.
3. Actual cost of reproduction of drawings and specifications.
4. Expendable supplies and services, such as aerial photography other than those normally used in an engineering office, provided especially under this Agreement for the Benefit of the City-actual cost plus Ten Percent (10%).

The Consultant will be required to submit a complete list of reimbursable items for all of the Consultant's charges. A typical list of reimbursable items is noted herein and can be modified by the Consultant to conform to the present needs and operations.

**List of Expenses**

<u>Item</u>	<u>Charge Rate</u>
Subsistence outside Metro Area	\$ <u>125</u> / day
Mileage outside Metro Area	\$ <u>0.50</u> / mile
Computer	\$ _____ / hour
Copies (8 1/2 x 11")	\$ _____ / each
Copies (8 1/2 x 14")	\$ _____ / each
Blueline copies	N/A
Mylar	N/A
Sepias	N/A
Outside - Materials/Supplies/Services	Cost plus 10%
Subconsultants	Cost plus 10%



**EXHIBIT C**  
**KEY PERSONNEL**

## 2. KEY PERSONNEL

The Enginuity Team is pleased to offer the City and County of Denver (CCD) a team of seasoned professionals who have come together to offer best-in-class services on the Wastewater Capital Projects Management On-Call Contract. Each with more than 15 years of experience, our key project management personnel offer specialized expertise in hydrologic and hydraulic (H&H) analysis, wastewater engineering, roadway design, utility design, planning, and construction management. In addition, we provide a team that has expertise in all elements required for this contract.

Our project manager and task leaders are turnkey, performing project management as well as developing engineering calculations, preparing the construction documents and coordinating with you on every step of the project. These senior team members are fully integrated into the day-to-day work activities and can provide you with innovative and cost effective solutions that address all of your stormwater and municipal engineering needs.

### Our History Working with the City and County of Denver

Our history of working with the City and County of Denver, and especially with Wastewater Management, is part of what differentiates this team from other consultants within the Denver area. Enginuity's staff, while working at numerous firms in the Denver area, have been performing high quality work for the CCD since 1998. A brief history of that experience is outlined below.

- 1999: Jeff Sickles worked with Public Works on the Bridge Scour Countermeasures Project. This project provided bridge scour construction plans for twelve bridges within the CCD on the South Platte, Sand Creek, Lakewood Gulch, and the Highline Canal.
- 1999 : Don Jacobs provided drainage analysis and design for the Lowry Redevelopment project.
- 2002-2003: working as a subconsultant for Matrix Design Group, Jeff Sickles provided hydrologic modeling for the City-Wide Stormwater Master Plan modeling the Sand Creek, Park Hill, Bear Creek, and Upper Cherry Creek Basins. He also provided master planning alternatives for the basins.
- 2003-2005: Don Jacobs, while working for Matrix Design Group, developed new hydrologic modeling for the majority of the drainage basins within the CCD and provided.
- 2005: Jeff Sickles served as the project manager for the 27th and Federal Stormwater Master Plan, leading a team that provided hydrologic modeling and master

planning services. This master plan was incorporated into the City-wide Stormwater Master Plan.

- 2005: Don Jacobs worked on the Stapleton Filing 9 Redevelopment project providing drainage analysis and design.
- 2006 : Jeff Sickles and Steve Rogers led a team to develop an Outfall Systems Plan for the Park Hill Basin, upstream of the CCD jurisdictional limits. This work included hydrologic and hydraulic analysis.
- 2006 : Jeff Sickles and Steve Rogers provided design for the Park Hill Detention Pond, Phase I (see "Early Identification of Project Issues" below).
- 2006 : Don Jacobs, working closely with Mike Anderson, provided hydrologic and hydraulic analysis for the Hanipden Heights Flood Investigation and Improvement Plan.
- 2006: Don Jacobs provided hydrologic analysis and preliminary hydraulic design for the 38th and Holly Detention Pond.
- 2008 : Don Jacobs and Jeff Sickles prepared the North Metro and Gold Line Outfall Systems Plan addressing some of the stormwater interface issues with RTD's FasTracks project.
- 2008-2009: Don Jacobs and Jeff Sickles worked on the East Corridor EIS preparing the drainage master plan for RTD. This work required significant coordination with the CCD and UDFCD and has provided valuable insight into the improvements plan along the rail line from DUS to Denver International Airport.

As part of the City-wide Drainage Master Plan in 2003, Jeff Sickles worked on the Sand Creek and Park Hill basin hydrology. Early in the planning phase he identified existing flooding problems and then developed alternative improvement concepts to reduce flooding. Following the City-wide project, Jeff worked with the CCD on a more detailed Outfall Systems Plan which verified that the conceptual plan could really work. During this phase, the team realized downstream flows were uncontrolled and adversely affecting railroad and wastewater treatment facilities in Commerce City. To address this, Jeff and his team worked with the CCD to identify a pond location at the Denver/Commerce City boundary. From there, they designed the Park Hill Detention Pond—a solution that addressed water quality and quantity, reduced downstream flows to Commerce City and significantly reduced flood damage potential. This project experienced several twists and turns from planning to construction but, by identifying key issues early, the team was able to provide long-term solutions.

- 2008: Don Jacobs began the Cherry Creek Neighborhood Drainage Basin Implementation Study. This was the first project in the CCD to use FLO-2D to study surface flow patterns and depths in complex scenarios.
- 2008: During the Cherry Creek project, CCD asked the project team to prepare a pre-disaster mitigation grant for the University and Josephine project. This work was completed in 2 weeks, but would typically take several months.
- 2009: Don Jacobs began the 4th Avenue Drainage Study for the area North of Cherry Creek. This study also used FLO-2D.
- 2009: Jeff Sickles provided design services for the Park Hill Detention Pond, Phase II.
- 2009: Don Jacobs provided hydrologic and hydraulic analysis for the Denver Union Station Redevelopment project working for RTD. The results of this study saved CCD over \$5 million in construction costs.
- 2009: UDFCD, CCD, and Denver Water selected Enginuity to prepare an outfall systems plan for the lower portion of the Park Hill basin.
- 2009: Enginuity and HDR partner on RTD's Eagle P3 project working closely together on drainage design issues, forming a strong working partnership.
- 2010: Enginuity works with Matrix Design Group to provide CCD with details regarding flooding along FasTracks corridors and the interface between stormwater facilities and RTD facilities.

This experience has allowed us to become integrated with Wastewater staff over the years. We know the staff on a first name basis and understand what the role that each team member plays within the organization. We understand your goals for implementing projects and the many challenges CCD faces on a regular basis. It is our goal and desire to continue our long standing working relationship with CCD on this on-call services contract.

### Team Organization

The Enginuity Team and our management approach are structured to successfully meet the many challenges faced by Wastewater Management and to deliver on your goals. The organizational chart shown on the following page graphically depicts the team that Enginuity has carefully assembled to ensure full coverage of the disciplines that will be required to complete the required on-call contract elements, within budget and to the quality standards the CCD expects. All of our lead team members have CCD experience—we thoroughly understand your policies,

#### Project Director, Jeff Sickles will:

- Deliver projects that meets the CCD's wastewater goals and criteria.
- Ensure that the best technical expertise available is assigned to CCD tasks providing Denver "Talent on Demand."
- Provide a team that is committed to being an extension of your in-house team. We understand that it's not the company, but the people who make a project successful.

procedures, criteria and challenges and are committed to developing the solutions you need.

Following are brief biographical overviews of the qualifications for our team's key management members. In addition to these team members, the Enginuity team provides you with abundant staff resources that have the ability to quickly and cost-effectively respond to your needs. Our team is structured so that you have multiple staffing options in every anticipated discipline. Table 1 on page 6 lists the names of all individuals shown on our project organization chart. If needed, our team provides over 200 local professionals to deliver on your projects.



**JEFFREY W. SICKLES, PE, CFM**

#### Project Director

Jeff Sickles, PE, CFM, has more than 16 years of experience in water resources engineering including management of multi-discipline design projects valued at more than \$6 million. With

extensive design and management experience, he has a complete understanding of stormwater issues and how they affect the various aspects of the overall project. Jeff is skilled at coordinating complex design schedules and thoroughly understands the CCD's policies, procedures and criteria, having worked on numerous CCD planning and design projects. Jeff's on-point experience includes serving as the principal-in-charge and project Manager for the 27th and Federal Stormwater Master Planning Project. Under

#### The Enginuity Team's senior managers:

- Provide unparalleled knowledge of the City's stormwater master plan and Wastewater's objectives and goals.
- Enginuity managers all have CCD experience.
- Each have more than 15 years of experience.
- Offer extensive H&H analysis, wastewater engineering, roadway design, utility design, construction management and planning experience.

that contract, Jeff led a team that successfully performed numerous task orders for CCD totalling over \$1 million. His responsibilities included managing multiple task orders; performing quality assurance/quality control (QA/QC); participating in meetings to help guide the project and developing several of the analysis concepts, and performing hydrologic and hydraulic analysis for master planning and design.

Jeff's expertise includes a broad knowledge of H&H engineering and multi-discipline design, and he has managed more than 30 projects from conceptual studies through preparation of final construction plan packages. With experience throughout Colorado and the Western United States (U.S.), he has worked with a variety of local, state and federal agencies including the CCD, and the Urban Drainage and Flood Control District (UDFCD).

Jeff's project experience includes serving as design manager on the \$6 million Shooks Run Drainage Improvements project for the City of Colorado Springs. This highly complex project involved removing the Shooks Run drainage channel from a system of box culverts to produce an open channel solution. The final product included a large arterial bridge; a multi-cell box culvert; open channel design for a 6,000 cfs flood control facility; storm drain design for all lateral systems entering the stream; retaining walls including both mechanically stabilized earth, cast-in-place, and soil nail walls; utility relocation for water and sanitary sewer; traffic control and landscaping design. This project was a finalist for project of the year at the Colorado Association of Stormwater and Floodplain Manager's Annual Conference in 2002.

*Jeff's commitment on this project will be 75 percent.*

Jeff's additional relevant project experience includes:

- Principal-in-Charge, Cherry Creek and 4th Avenue Drainage Studies, Denver, CO; CCD.
- Project Manager, Park Hill Detention Pond, Denver, CO; CCD.
- Project Manager, 27th and Federal Stormwater Master Plan, Denver, CO; CCD.
- Project Manager, North Metro/Gold Line/US 36 Outfall Systems Plan, Denver, CO; CCD.
- Project Manager, Park Hill Outfall Systems Plan, Denver, CO; CCD.
- Hydraulics Task Manager, City-wide Stormwater Master Plan Update, Denver, CO; CCD.
- Hydraulics Engineer, Bridge Scour Countermeasure Design, Denver, CO; CCD.



**DONALD J. JACOBS, Jr., PE**  
**Planning and Design Services Leader**

Don Jacobs has over 16 years of diverse experience in water resources engineering. He has experience on numerous projects throughout Colorado and the western U.S., and has worked with a variety of private clients

as well as federal, state and municipal government agencies including the CCD and the UDFCD. Don's experience spans a broad range of services within water resources that includes conceptual planning through detailed design for construction. His specific areas of technical expertise include H&H modeling, design of open channels, storm sewer design, floodplain modeling, drop structure design, bridge hydraulics, storm water master planning and highway related drainage and erosion control practices.

Don's on-point experience includes leading the technical effort to develop existing hydrology for the City-wide Master Plan in 2005. This 2-year modeling effort and in-depth analysis of the City's drainage system has given him an understanding of the City's drainage patterns and issues that is second to none. Don has completed numerous other drainage studies for the CCD including emergency construction, design, and public involvement in the Hampden Heights neighborhood; technical analysis and planning in the Cherry Creek North and Cherry Creek East neighborhoods, and several other design efforts throughout the City. His project experience also includes serving as the lead drainage design engineer on the nine-mile, \$187 million Northwest Parkway Design-Build project in Broomfield, Colorado. On this project he was responsible for producing construction documents and coordinating drainage design efforts with roadway, bridge and utility design disciplines. Don prides himself on providing high value, innovative solutions and will be a key resource available to the CCD.

*Don's commitment on this project will be 75 percent.*



**STEPHEN W. ROGERS, PE**  
**Hydrology and Hydraulics Task Leader**

Steve's experience includes over 20 years of consulting engineering work related to water resources projects. He has served as Project Manager on numerous water resources projects throughout the world. Steve's expertise is in the areas of surface water hydrologic/hydraulic analysis, floodplain management, water resources structure design and the design of drainage

management facilities. He has performed numerous hydrologic and hydraulic evaluations for both water supply and flood control projects. His work experience has included aspects of planning studies through design and into construction. He has performed numerous evaluations related to the analysis and design of surface water hydraulic structures including dam spillways, diversion structures, mining drainage facilities, urban outfall systems, bridges and other surface water storage and conveyance features for both private and Federal, State and municipal clients.

Representative work includes computer watershed modeling, hydraulic modeling, floodplain mapping studies, sediment transport analysis, statistical analysis, groundwater modeling, design and analysis of hydraulic structures, design and installation of hydrologic monitoring devices, bridge scour investigations, water quality sampling, flood control/drainage planning, and water resources planning.

*Steve's commitment on this project will be 50 percent.*



**RICH THORNTON, PE**  
**Wastewater Task Leader**

Rich Thornton is a project engineer and manager with experience in planning and design of urban stormwater systems, wastewater and combined sewer collection systems, and potable water systems. Rich's civil engineering experience includes design of flood protection improvements for federal, state, and local agencies; design of municipal capital improvement projects for stormwater, wastewater and potable water systems; and site development design for federal, commercial, industrial and residential properties. His experience includes computer modeling, master planning, computer aided design, design and preparation of construction drawings, cost estimating, specifications, and construction oversight.

Rich's stormwater systems experience has focused on basin master planning and urban stormwater analysis and design, including treatment, street capacity, inlet sizing, storage and conveyance systems. Rich has significant experience in stormwater quality and conveyance system design in ultra-urban settings including evaluation and siting of Low Impact Development (LID) practices. Expertise also includes open channel and closed conduit flow hydraulics; floodplain determination; and hydrologic and hydraulic computer modeling including EPA-SWMM, XPSWMM, XP-2D, MIKE-11, StormCAD, HY8, HEC-2 and HEC-RAS. Rich also has experience with urban 2-dimensional models using XP-2D; urban stormwater quality modeling

with XPSWMM; and regional and site-specific stormwater treatment facility and detention pond designs.

Rich's water and wastewater master planning experience includes GIS land use based flow/demand determinations; population and demand forecasting; development of unit flow factors, diurnal patterns, and I/I estimates; GIS-based hydraulic model construction via ArcGIS and model calibration; CIP development; alignment studies; report preparation and leading public meetings.

*Rich's commitment on this project will be 40%.*



**KAREN CREAMER, PE**  
**Roadway Design Task Leader**

Karen Creamer has over 15 years experience, including 14 years with HDR, involving transportation design, corridor planning, and environmental assessments. Karen was the project manager for the City of Aurora NPS contract and led design of several intersection upgrades and urban roadway improvements. She also was lead roadway engineer on US 550, the I-25/Douglas Lane Interchange, US 50 Reconstruction in Las Animas, and the I-80/US 287 Interchange project in Laramie. Karen has experience in all stages of project delivery from the planning stages and environmental permitting, to final design – preparing construction plans, specification, and cost estimates.

*Karen's commitment on this project will be 25%.*



**BOB ROGERS, PE**  
**Utility Design Task Leader**

Bob Rogers serves as a senior field engineer, construction estimator, and civil design engineer on major civil public works and multi-discipline projects. His experience includes serving as a senior field engineer on major drainage projects, roadway projects, bridge projects, utility projects, wastewater treatment plants, and manufacturing facilities. Bob also performs value engineering and checks for coordination between disciplines. He also designs road, utility, and grading systems and writes technical specifications for many of the civil engineering projects.

Bob provides inspection and cost estimating services for several local and state agencies for civil projects, including box culvert systems, open channel systems, bridges, roadway improvements, water systems, sanitary sewer systems, pump stations, and aerated lagoons.

*Bob's commitment on this project will be 20%.*

**BRUCE TONILAS, PE****Construction Services Manager**

Bruce Tonilas' experience includes construction observation, construction management, structural inspection, design and design management on a variety of large and small projects. His experience involves both civil and infrastructure types of projects. He has a very diverse background that includes providing contracting, owner, and design representative services while working under a multitude of project delivery systems, including agency construction management, construction management at risk, hard bid general contracting, unit price contracting, and design-build.

Bruce has spent many years in his career learning project controls right out of the gates. He was Lead Project Control Specialist on a 2.2 million square-foot auto assembly plant. His project controls experience subsequent to that assignment includes project controls for a prison in Michigan, a scheduling consultant for a steel manufacturing facility in Detroit along with numerous other manhour loaded capital construction plan projects at that same plant. He performed scheduling for CDOT while working for CDOT on the Glenwood Canyon project, and he was also responsible as the Project Controls Lead for the PMT on DIA runway and grading projects before being promoted to Resident Engineer. Bruce progressed in his career to cover the broader aspects of project management while retaining and implementing project controls systems for numerous projects on which he has worked to be an integral part of the project management plan.

*Bruce's commitment on this project will be 15%.*

**JOHN MIGLIACCIO, PE****Structural Task Leader**

John Migliaccio is a structural engineer and project manager who has performed structural design of a wide variety of bridges, drainage structures, and retaining walls throughout Colorado. He is proficient in modeling, analysis, and design of various structural systems such as precast, cast-in-place concrete, structural steel, mechanically-stabilized earth, and timber. John's well-rounded background also includes structural design of spillways and reservoir intake structures. On his past projects, John has interfaced with and advised many state and municipal government agencies, including the City and County of Denver. He also brings invaluable experience from the construction industry as an estimator and a project engineer. John is certified by the National Highway Institute as a Bridge Inspection Team Leader.

*John's commitment to this project will be 20%.*

**CHRIS VOGELSANG, PE****Transportation Planning and Traffic Studies Lead**

Chris Vogelsang has more than nineteen years of experience in the transportation field including specific areas of expertise in safety and security documents and processes for rail transit corridors, bicycle and pedestrian facilities integration to rail transit facilities, and traffic engineering. He is a recognized regional and national expert on bicycle and pedestrian facility planning, with an expertise in bicycle and pedestrian interface with mass transit, rail station areas and TOD developments. Mr. Vogelsang has led bicycle and pedestrian planning, safety and security and traffic engineering integration on numerous rail and roadway projects in Colorado, Arizona, Texas, Virginia, Florida, and Illinois including the Gold Line EIS, US 36 EIS, the Northwest Rail EIS, the SH 119/Gaming Area EIS in Clear Creek County, CO, the West Corridor Final Design, the Gold Line EIS, The Denton County Texas Commuter Rail EA, the Ft. Worth Transit Authority Commuter Rail EIS, the Arapahoe Road Corridor Study, and the Parker Road Corridor Study, among others. He has also acted as the lead consultant for the Lakewood Bicycle System Master Plan, the City of Englewood Bicycle Facilities Planning Study, The City and County of Denver FHWA Sponsored Bicycle Traffic Signal Research Study, the Town of Avon Pedestrian Accommodation and Mobility Study, the Town of Bayfield Bicycle Master Plan, as well as work in several National Parks and Monuments related to pedestrian and bicycle accommodation and transit integration. His approach in successfully completing these projects is to bring planning, engineering, implementation, and stakeholder consensus together to find the most appropriate solutions to difficult problems.

*Chris' commitment to this project will be 10%.*

**ON-CALL SUPPORT TEAM**

This on-call team includes professionals with the right skills and expertise to provide for all of your needs as indicated on the Wastewater On-Call RFP. Our senior leadership team has a wealth of resources to call on when you identify a consulting need. Our leadership team will work closely with our team members to develop scopes, schedules, and costs and will be sure to staff each assignment with experts in the appropriate field of work. Table 1 provides a list of the key individuals assigned to this project whom will be available for various task orders over the life of the contract.

TABLE 1: KEY PERSONNEL (ATTACHMENT 2)

[illegible]

**EXHIBIT D**  
**CERTIFICATE OF INSURANCE**





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
1/19/2011

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

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

<b>PRODUCER</b> Van Gilder Insurance Corp. 1515 Wynkoop, Suite 200 Denver CO 80202	<b>CONTACT</b> NAME: Mable Griest PHONE (A/C, No, Ext): 303-837-8500 FAX (A/C, No): 303-831-5295 E-MAIL: mgriest@vgic.com ADDRESS: mgriest@vgic.com PRODUCER CUSTOMER ID #: ENGENG														
<b>INSURED</b> Enginuity Engineering Solutions, LLC 9137 E. Mineral Circle, Suite 180 Centennial CO 80112	<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: Hartford Insurance Company</td><td>0</td></tr><tr><td>INSURER B: Beazley USA</td><td></td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Hartford Insurance Company	0	INSURER B: Beazley USA		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A: Hartford Insurance Company	0														
INSURER B: Beazley USA															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

## COVERAGES

CERTIFICATE NUMBER: 1807886975

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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	Y	Y	34SBWVR8405	9/10/2010	9/10/2011	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						\$
A	AUTOMOBILE LIABILITY	Y	Y	34SBWVR8405	9/10/2010	9/10/2011	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	<input type="checkbox"/> ANY AUTO						
	<input type="checkbox"/> ALL OWNED AUTOS						
	<input type="checkbox"/> SCHEDULED AUTOS						
	<input checked="" type="checkbox"/> HIRED AUTOS						
	<input checked="" type="checkbox"/> NON-OWNED AUTOS						
A	<input checked="" type="checkbox"/> UMBRELLA LIAB			34SBWVR8405	9/10/2010	9/10/2011	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$ \$
	<input type="checkbox"/> EXCESS LIAB						
	<input type="checkbox"/> CLAIMS-MADE						
	<input type="checkbox"/> DEDUCTIBLE						
	<input checked="" type="checkbox"/> RETENTION \$10,000						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	N/A				WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						
	If yes, describe under DESCRIPTION OF OPERATIONS below						
B	Professional Liability			V10F73100101	9/10/2010	9/10/2011	Per Claim \$1,000,000 Annual Aggregate \$1,000,000
	Claims Made						

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

RE: OC11008 On Call Engineering Services  
The City and County of Denver, its elected and appointed officials, employees and volunteers are listed as additional insureds with regard to the Commercial General Liability and the Business Auto Liability policy

## CERTIFICATE HOLDER

## CANCELLATION

City and County of Denver Attn: Elizabeth Sample - Administrator 201 W. Colfax Ave., Suite 614 Denver CO 80202	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p> 
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## BUSINESS LIABILITY COVERAGE FORM

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

### b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

### c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

### d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

### e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

## 3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

## 4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

## 5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

## 6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

## BUSINESS LIABILITY COVERAGE FORM

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. - Optional Additional Insured Coverages.

### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when 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;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) 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 for the vendor; or

- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or

- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

### b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

## BUSINESS LIABILITY COVERAGE FORM

**(6) When You Are Added As An Additional Insured To Other Insurance**

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

**(7) When You Add Others As An Additional Insured To This Insurance**

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

**(a) Primary Insurance When Required By Contract**

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

**(b) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**8. Transfer Of Rights Of Recovery Against Others To Us**

**a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

**b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## AMENDMENT - AGGREGATE LIMITS (PER PROJECT)

This endorsement modifies insurance provided under the following:

### BUSINESS LIABILITY COVERAGE FORM

**A. Section D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE is amended as follows:**

1. The General Aggregate Limit under Section D. LIABILITY AND MEDICAL EXPENSES LIMIT OF INSURANCE applies separately to each of your "projects".
2. The limits shown in the Declarations for Liability and Medical Expenses, Damage To Premises Rented To You and Medical Expenses continue to apply.
3. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit.

4. If the applicable "project" has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the "project" will still be deemed to be the same "project".

5. The provisions of Section D. LIABILITY AND MEDICAL EXPENSES LIMIT OF INSURANCE not otherwise modified by this endorsement shall continue to apply as stipulated.

**B. Additional Definitions**

The following definition is added to Section G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS:

1. "Project" means "your work" at location(s) away from premises owned or rented to you.

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