

## FIFTH AMENDATORY AGREEMENT

**THIS FIFTH AMENDATORY AGREEMENT** is made by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **E.T. TECHNOLOGIES, INC.**, a Utah corporation, with its principal place of business located at 10000 South Dransfeldt Road, Suite 100, Parker, Colorado 80134 (the “Contractor”).

### RECITALS:

**A.** The City and Contractor entered into an Agreement dated September 28, 2011, a First Amendatory Agreement dated July 9, 2012, a Second Amendatory Agreement dated July 15, 2013, a Third Amendatory Agreement dated September 26, 2014, and a Fourth Amendatory Agreement dated May 13, 2015 (together, the “Agreement”) relating to storage tank management service as set forth in the Agreement.

**B.** The City and Contractor wish to amend the Agreement to extend the term and increase funding as set forth below.

The parties agree as follows:

1. Section 2 of the Agreement, entitled “**TERM**,” is amended by deleting the first sentence and replacing it with:

“The Agreement will commence September 1, 2011 and will expire on June 30, 2016 (the “Term”).”

2. The first sentence of subparagraph d.(1) of Paragraph 5, which paragraph is entitled “**COMPENSATION AND PAYMENT**,” is amended by deleting it and replacing it with:

“Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation shall not exceed **FOUR MILLION DOLLARS AND NO CENTS (\$4,000,000.00)** (the “Maximum Contract Amount”).

3. Except as amended in the Fifth Amendatory Agreement, the Agreement is affirmed and ratified in each and every particular.
4. Contractor assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution, or action passed or taken, to enter into the Fifth Amendatory Agreement. The person or persons signing and executing the Fifth Amendatory Agreement on behalf of Contractor hereby warrants and guarantees that Contractor has fully authorized he or she or them to execute the Fifth Amendatory Agreement on behalf of Contractor and to validly and legally bind Contractor to all terms, performances and provisions in the Agreement as amended by the Fifth Amendatory Agreement set forth herein.

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**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



Contract Control Number: ENVHL-201101761-05

Contractor Name: E T TECHNOLOGIES INC

By: Clellan Pearce

Name: Clellan Pearce  
(please print)

Title: President  
(please print)

ATTEST: [if required]

By: Kay Smith

Name: Kay Smith  
(please print)

Title: Office Manager  
(please print)

