

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_

COUNCIL BILL NO. CB12-0965

3 SERIES OF 2013

COMMITTEE OF REFERENCE:

4 BUSINESS, WORKFORCE & SUSTAINABILITY

5 A BILL

6 **For an ordinance approving a proposed Fifth Amendatory Agreement between the**  
7 **City and County of Denver and Pericle Communications Company concerning**  
8 **engineering services in the area of wireless communications at Denver**  
9 **International Airport.**

10  
11 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

12 **Section 1.** The proposed Fifth Amendatory Agreement between the City and County of Denver  
13 and Pericle Communications Company in the words and figures contained and set forth in that form of  
14 Agreement available in the office and on the web page of City Council, and to be filed in the office of  
15 the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, under City Clerk's Filing  
16 No. 2001-1075-E is hereby approved.

17 COMMITTEE APPROVAL DATE: January 17, 2013.

18 MAYOR-COUNCIL DATE: January 22, 2013.

19 PASSED BY THE COUNCIL \_\_\_\_\_ 2013

20 \_\_\_\_\_ - PRESIDENT

21 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2013

22 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
23 EX-OFFICIO CLERK OF THE  
24 CITY AND COUNTY OF DENVER

25  
26 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2013; \_\_\_\_\_ 2013

27  
28 PREPARED BY: Kevin Cain, Assistant City Attorney  DATE: January 24, 2013

29  
30 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the  
31 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
32 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6  
33 of the Charter.

34  
35 Douglas J. Friednash, City Attorney

36  
37 BY: \_\_\_\_\_, Assistant City Attorney DATE: January 24, 2013

## FIFTH AMENDATORY AGREEMENT

**THIS FIFTH AMENDATORY AGREEMENT**, made and entered into as of the date set forth on the signature page, below (the "Effective Date"), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, for and on behalf of its Department of Aviation (the "CITY"), Party of the First Part, and **PERICLE COMMUNICATIONS COMPANY**, a Delaware corporation with headquarters in Colorado Springs, Colorado (the "CONSULTANT"), Party of the Second Part;

### WITNESSETH:

**WHEREAS**, the parties executed an Agreement dated October 16, 2001, a First amendment dated November 20, 2002, a Second Amendment dated November 24, 2004 and a Third Amendment dated February 13, 2007; and a Fourth Amendment dated September 1, 2009 (collectively the "Existing Agreement") for consulting engineering services in the area of wireless communications, design, analysis, measurement, troubleshooting, installation and project management support for new and existing radio frequency systems at DIA; and

**WHEREAS**, the parties desire to amend the Existing Agreement to enlarge the term and amend the Billing Rates set forth in the Existing Agreement;

**NOW, THEREFORE**, for and in consideration of the premises and other good and valuable consideration, the parties hereto agree as follows:

1. Paragraph 4A. Compensation and Payment: Billing Rates of the Existing Agreement are hereby amended by replacing those rates with the following:

A.	Principal Engineer	\$235.00 per hour
	Senior Engineer	\$190.00 per hour
	Staff Engineer	\$145.50 per hour
	Radio Technician	\$130.00 per hour
	Radio Installer	\$102.50 per hour
	Draftsman	\$87.50 per hour

2. Paragraph 7.A, of the Existing Agreement hereby is amended to provide that the Term of this Agreement shall terminate as of December 31, 2013, unless sooner terminated or extended in accordance with the Term hereof.

3. Paragraph 7.B, of the Existing Agreement hereby is amended by adding the following:

The Term of this Agreement may be extended to December 31, 2015 by written notice from the Manager to the Consultant of an offer of such extension which must be counter-signed by the Consultant and returned to the Manager prior to December 31, 2013.

4. The Existing Agreement is hereby amended to add the following Paragraph 45:

**"45. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT.**

A. The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes, and Den. Rev. Mun. Code 20-90 and the Consultant is liable for any violations as provided in said statute and 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 subcontractor or subconsultant 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 either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it has complied with all federal requirements regarding the use of the E-Verify program, including, by way of example, requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subcontractor or subconsultant performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and the City within three days. The Consultant will also then terminate such subcontractor or subconsultant if within three days after such notice the subcontractor or subconsultant does not stop employing or contracting with the illegal alien, unless during such three day period the subcontractor or subconsultant provides information to establish that the subcontractor or subconsultant 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 Den. Rev. Mun. Code 20-90.3."

5. The Existing Agreement is hereby amended to add the following Paragraph 46:

**"46. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:**

Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object

to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.”

6. Except as otherwise provided herein, all of the terms and conditions of the Existing Agreement shall remain in full force and effect as if fully set forth herein.

7. This Fifth Amendatory Agreement is expressly subject to, and shall not become effective or binding on the City, until it is approved by City Council and fully executed by all signatories of the City and County of Denver.

**[SIGNATURE PAGE FOLLOWS]**

**Contract Control Number:** PLANE-CE12067-05

**Contractor Name:** PERICLE COMMUNICATIONS COMPANY

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:

DOUGLAS J. FRIEDNASH, Attorney  
for the City and County of Denver

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



Contract Control Number: PLANE-CE12067-05

Contractor Name: PERICLE COMMUNICATIONS COMPANY

By: Jay M. Jacobs Meyer

Name: JAY M. JACOBS MEYER  
(please print)

Title: PRESIDENT  
(please print)

ATTEST: [if required]

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

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

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

