

AGREEMENT

THIS AGREEMENT is made and entered into as of the date stated on the City signature page below by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (“**City**”), and **E.T. TECHNOLOGIES, INC.**, a Utah corporation doing business at 10000 South Dransfeldt Road, Suite 100, Parker, CO 80134 (the “**Contractor**”), jointly “**the Parties**”.

W I T N E S S E T H:

WHEREAS, the City desires to obtain professional services to assist City agencies with routine and non-routine management and care of its underground and aboveground storage tanks including the City owned and operated tanks at Denver International Airport (“**DIA**” or the “**Airport**”); and

WHEREAS, the City solicited and received proposals for such services and the Contractor’s proposal was selected; and

WHEREAS, Contractor is qualified and ready, willing, and able to perform the services as set forth in this Agreement in a timely, efficient, and economical manner;

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

1. LINES OF AUTHORITY:

A. For DIA. DIA’s Chief Executive Officer, her designee or successor in function (the “**CEO**”) authorizes and directs all work performed for DIA under this Agreement. Until otherwise notified by the CEO, the Director of Environmental Programs or his successor-in-interest is the “**DIA Project Manager**” for this Agreement, and is designated as the authorized representative of the CEO through whom services performed for DIA under this Agreement shall be directed and coordinated. Administrative reports, memoranda, correspondence, and other submittals required of Contractor shall be processed in accordance with the DIA Project Manager's directions.

B. For Other City Agencies. The City’s Executive Director for the Department of Environmental Health, his designee or successor in function (the “**Executive Director**”) authorizes and directs all work performed for other City agencies under this Agreement. Until otherwise notified by the Executive Director, the Executive Director is the “**Active Tank Compliance Program Manager**” for other City agencies under this Agreement, and is designated as the representative through whom services performed for City agencies other than DIA under this Agreement shall be directed and coordinated. Administrative reports, memoranda, correspondence, and other submittals required of Contractor shall be processed in accordance with the Active Tank Compliance Program Manager’s directions.

2. SERVICES TO BE PERFORMED:

A. As either the CEO or Executive Director directs, Contractor shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth on **Exhibit A, the Scope of Work**, to the City's satisfaction. Contractor is ready, willing, and able to provide the services required by the Agreement. All means and methods chosen to perform work under the Agreement are and will be the sole responsibility of the Contractor.

B. Contractor shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement. At its sole cost and expense, Contractor is responsible for all required training.

C. Contractor shall provide experienced, and where required by law licensed and/or certified, personnel to perform the services under the Agreement.

D. Contractor shall maintain qualified staff on its payroll and/or have qualified persons available through subcontracts in effect throughout the term of the Agreement. Qualified personnel or qualified persons available through any subcontract to perform services under the Agreement must have specific experience in installing and repairing above-ground and underground storage tank systems, installing and maintaining Veeder-Root automatic tank monitoring systems, and performing tank system inspections in accordance with industry standards/best practices, including Steel Tank Institute or American Petroleum Institute standards or both.

E. Upon request, Contractor shall provide a copy of all training certificates for each of its permanent employees. When training of workers for a specific duty is required by law, the Contractor shall ensure that: only properly trained individuals are assigned to and actually perform the duty for which training is required; training for each worker is up to date and meets all refresher requirements; and a physical record of certification of training and refresher training exists for each worker.

F. Awareness Requirement: all activities are subject to the requirements of the City's and DIA's ISO 14001 certified Environmental Management Systems ("**EMS**").

G. In performing work at DIA, Contractor shall comply and ensure compliance with all DIA-related policies.

H. Awareness Requirement: all contractors, subcontractors, and other suppliers of goods and services at DIA are required to be aware of DIA's Environmental Policy, which can be found at: <http://www.flydenver.com/biz/enviro/policy.pdf>, and of significant environmental aspects and impacts that would be associated with their work at DIA.

I. When access to property not owned by the City must be gained to complete work under the Agreement, Contractor shall be responsible for obtaining the necessary permission and releases from the property owner to allow Contractor to gain access and work on the property.

J. Contractor is responsible for submitting deliverables to the City. Deliverables include written work plans, operating instructions, equipment specifications, reference materials, site maps, diagrams, tables, and figures. When requested by the City, Contractor shall submit deliverables in draft form for review and approval by the City before submission of final deliverables.

K. When requested by the City, Contractor shall provide detailed records of quantities of materials and waste that it purchases, consumes, transports, treats, disposes or otherwise handles on behalf of the City to the City to enable the City to accurately track the quantities of these wastes or materials for billing and reporting purposes. Quantity measurement methods and values proposed by the Contractor for a particular work assignment made under the Agreement will be subject to the City's prior review and approval.

3. PROJECT AWARD; SCOPE OF WORK:

A. Project Awards. The City will request services on an as-needed basis through a specific scope of work. At its sole discretion, the City may award a project by seeking a statement of work from more than one contractor or by selecting a particular contractor to perform work. In any case, when and as requested, the Contractor shall submit a proposed statement of work, including a not-to-exceed charge for service, and perform work under a corresponding notice to proceed ("**NTP**"). Any equipment and supplies shall be included as a separate line item in a statement of work and included in the amount not-to-exceed. Contractor shall also include in each proposed statement of work a breakdown of all anticipated costs with line items and extensions. Contractor shall not commence any work until receipt of an NTP approving a proposed statement of work. All work shall be performed and completed in accordance with the applicable NTP, including any schedule set forth therein.

B. Reservations of Rights. The City reserves the rights to reject any proposed statement of work; negotiate an amended scope of work with Contractor; and negotiate with any other contractor should the City deem any one of these actions to be in its interest to do so. Nothing in the Agreement guarantees the Contractor any minimum amount of work.

C. Scope of Work. When a scope of work for a project requires the design of a tank installation or other action, the Contractor's Basic Services for a project to which it is assigned shall consist of the phases described below and shall include research, inspection, planning, designing, scheduling, estimating, contract administration, and operation and maintenance, as appropriate to each project for each phase of the project. Contractor shall obtain authorization from the City before proceeding with each phase. Nothing in the Agreement shall be construed as placing any obligation on the City to proceed with any phase beyond the latest phase authorized by City.

- (1) Management Planning Phase:** Contractor shall attend all conferences requisite to a complete understanding of each project, and the Contractor shall document the information communicated in these conferences.

- a. If the City, state, or federal government has adopted construction or design and document standards, the Contractor shall use all applicable standards.
- b. The Contractor shall review the City's needs and requirements to determine the specific requirements for each project based on the information the City provides.
- c. The Contractor shall then review these project requirements with the City to confirm its understanding of the scope of the project with the City.
- d. Upon the City's approval of the costs, the Contractor shall obtain all studies and engineering data necessary to properly investigate, report on, and provide design services for the project.
- e. The Contractor shall then prepare and present a written project schedule, scope of work, and work plan to the City setting forth the result of its planning efforts, and describing alternate methods or approaches to the specific project and recommending those methods or approaches best suited to the needs and budget of the City with a Statement of Probable Cost.

(2) Design Phase:

- a. In accordance with usual and customary professional standards, the Contractor shall prepare Design Documents for the City's approval with a statement of probable cost. All Design Documents shall comply with the City's requirements, budget restrictions of the specific project, and City selected design and construction formats. The approved project work plan shall provide a competent solution for the problems a specific project may present.
- b. At a minimum, the Design Documents shall include complete Drawings and Specifications setting forth the requirements for the completion of the project in adequate, reasonable, reliable, and final detail and all other documents necessary to provide a thorough and competent solution for the specific project in accordance with usual and customary professional standards; include a proposed project time schedule; set forth in detail the requirements for the completion of the entire project; include complete information as necessary to bid the project; and contain complete bidding documents meeting all City requirements.
- c. The Contractor shall provide the City with a Final Statement of Construction Cost based upon the Design Documents. The Contractor shall calculate these costs to a uniform and detailed level based on Drawings and the Specifications for the project, reflecting the probable project cost and taking into account the building trades and construction components utilized in the project design.

- d. Upon receiving an NTP, the Contractor shall file all documents necessary and required for the approval of the project design by governmental authorities having jurisdiction over the project. The City at its sole discretion may seek waivers of permit fees or other government imposed fees. If waivers are not obtained, the Contractor shall be responsible for payment of these fees.
 - e. The City's acceptance of the Design Documents and Final Statement of Construction Cost shall not relieve the Contractor of any responsibility for design deficiencies, omissions, or errors.
 - f. Contractor or responsible subcontractor, if any, shall execute and seal, if necessary, all final work products. The Contractor shall be ultimately responsible for all design provided by the Contractor or its subcontractors under the Agreement.
 - g. The Contractor shall make available all design data forming the basis for Drawings and Specifications for the City to review.
 - h. The Contractor shall provide to the CEO/Executive Director a list of long lead items including agency approvals and the issuance of permits.
- (3) Administrative Phase: The Administration Phase shall commence when the City executes an NTP to the Contractor. The approved project schedule shall set and govern the schedule for Contractor's services included in this phase. The City may alter the approved project schedule due to change orders or approved time extensions, or may alter the approved project schedule until it receives the Project Documents, including Contract Documents, original Drawings, Specifications, laboratory test reports, surveying notes, design calculations, and other pertinent information.

4. **COMPENSATION AND PAYMENT:**

A. Fee. As full compensation for Services and reimbursable expenses incurred, the City will pay Consultant the lesser of the maximum fee to be set forth in the corresponding NTP or an amount based on Consultant's periodic invoices. Amounts billed for Services rendered and expenses incurred may not exceed the hourly rates and unit costs provided in **Exhibit B**.

B. Reimbursable Expenses. The reimbursable expenses identified in Exhibit B are the only expenses permitted for reimbursement under the Agreement, and subject to subparagraph 4.A, will be reimbursed at the rates set forth in Exhibit B. Consultant shall include the anticipated cost of reimbursable expenses in its proposed statement of services. No other reimbursable expenses are permitted under the Agreement, and Consultant is responsible for any other expense it incurs as its cost of doing business.

C. Invoicing. Consultant shall submit invoices for the preceding month's work, or in a timely fashion appropriate to the project scope and schedule as approved by the City, specifying

the work performed, time period covered thereby, and any additional information the City requires. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under the Agreement.

D. Maximum Contract Amount:

- (1) Notwithstanding any other provision of this Agreement, in no event shall the City be liable for payment for services rendered and expenses incurred by Contractor under the terms of this Agreement for any amount in excess of the sum of **TWO MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$2,250,000.00)** (the "Maximum Contract Amount").
- (2) The obligations of the City under this Agreement shall extend only to monies appropriated for the purpose of this Agreement by the City Council, paid into the City Treasury, and encumbered for the purposes of this Agreement. Contractor acknowledges that (i) City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.
- (3) Payment under this Agreement for work performed for DIA shall be paid from the City and County of Denver Airport Revenue Fund and from no other fund or source. The City is not under any obligation to make any future encumbrances or appropriations for this contract nor is the City under any obligation to amend this Agreement to increase the Maximum Contract Amount above.

5. TERM:

The Term of this Agreement shall commence on July 1, 2016, and shall terminate on June 30, 2019, unless sooner terminated as provided in this agreement. The Term may be extended for up to two (2) additional one (1) year terms by written amendment executed in the same manner as the Agreement. Should for any reason the Term expire prior to the completion by Contractor of a task, then in the City's sole discretion this Agreement shall remain in full force and effect to permit completion of any work that was commenced prior to the date that otherwise would have been the termination date.

6. PERSONNEL ASSIGNMENTS:

A. The Parties acknowledge that the Contractor's represented professional qualifications are a consideration in the City's decision to enter into this Agreement. The Contractor shall utilize the key professional personnel identified in its proposal, including those of subcontractors, if any. A copy of the list of key personnel is attached as **Exhibit C**. The parties intend that all key professional personnel be engaged to perform their specialty for all the services required by the Agreement and that the Contractor and subcontractor's key professional personnel be retained for the life of the Agreement to the extent practicable and to the extent that these services maximize the quality of work performed under the Agreement.

B. Within thirty days of executing the Agreement, the Contractor shall submit to the City a list of any additional key professional personnel, if any, to perform work under the Agreement, including complete resumes and other information describing their ability to perform the tasks assigned under the Agreement. Use of additional personnel is subject to the City's prior approval, which approval shall not be unreasonably withheld.

C. If the Contractor decides to replace any of its key professional personnel performing, or anticipated to perform, work pursuant to this Agreement, it shall notify the City in writing of the changes it desires to make. No replacement shall be made until it is approved in writing by the City, which approval will not be unreasonably withheld. The City will respond to the Contractor's written notice regarding replacement of key professional personnel within fifteen days after the City receives the list of key professional personnel that the Contractor desires to replace. If the City does not respond within that time, the listed personnel shall be deemed to be approved.

D. If the City determines that the performance of approved key personnel is not acceptable, it shall notify the Contractor and may give the Contractor notice of the period of time that the City considers reasonable to correct this performance. If the City notifies the Contractor that certain of its key personnel should be reassigned, the Contractor will use its best efforts to obtain adequate substitute personnel within ten days from the date of the City's notice.

7. EXAMINATION OF RECORDS:

A. In connection with any consulting services performed hereunder on items of work toward which federal funds may be received under the Airport and Airway Improvement Act of 1982, as amended, the City and County of Denver, the Federal Aviation Administration, the Comptroller General of the United States and any other duly authorized representatives shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. The Contractor further agrees that such records will contain information concerning the hours and specific tasks performed along with the applicable federal project number.

B. The Contractor agrees that until the expiration of three years after the final payment under this Agreement, any duly authorized representative of the City, including the CEO or City Auditor or their representatives, shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this Agreement, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program.

8. STATUS OF CONTRACTOR:

It is agreed and understood by and between the parties hereto that the status of Contractor shall be that of an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.2 (C) of the Charter of the City and County of Denver, and it is not intended, nor shall it be construed, that Contractor or its personnel are employees or officers of the City under D.R.M.C. Chapter 18 for any purpose

whatsoever.

9. ASSIGNMENT:

Contractor shall not assign, pledge or transfer its duties and rights under this Agreement, in whole or in part, without first obtaining the written consent of the City. Any attempt by Contractor to assign or transfer its rights hereunder without such prior written consent shall, at the option of the City, automatically terminate this Agreement and all rights of Contractor hereunder. Such consent may be granted or denied at the sole and absolute discretion of the City.

10. SUBCONTRACTORS:

A. The Contractor may retain and contract with subcontractors subject to the terms of the Agreement, including the requirement that no final agreement with any subcontractor be entered into without the City's prior written consent. Requests for this approval must be made in writing and include a description of the nature and extent of the services to be provided by the subcontractor, the name, address, the professional experience and qualifications of the subcontractor and any other information that the City requests. Approval of the subcontractor shall not relieve the Contractor of any obligations under the Agreement. Any final agreement with the approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make a claim of payment against any City property arising out of the performance of the agreement.

B. Because Contractor's represented professional qualifications are a consideration to the City in entering into this Agreement, the CEO/Executive Director shall have the right to reject any proposed outside subcontractor for this work deemed by him, in his sole discretion, to be unqualified or unsuitable for any reason to perform the proposed services, and the CEO/Executive Director shall have the right to limit the number of outside subcontractors or subcontractors or to limit the percentage of work to be performed by them, all in his sole and absolute discretion. The CEO/Executive Director shall exercise reasonableness in making such decisions regarding subcontractors.

C. Contractor is subject to D.R.M.C. Section 20-112 wherein Contractor is to pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven days after receipt of any payment from City. Any late payments are subject to a late payment penalty as provided for in the prompt pay ordinance (Section 20-107 through 20-118).

11. NO DISCRIMINATION IN EMPLOYMENT:

In connection with the performance of work under this Agreement, Contractor agrees not to fail or refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation, terms, conditions or privileges of employment 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; and Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.

12. INSURANCE:

A. General Conditions. Consultant agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Consultant shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the above-described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement and shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Consultant shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Consultant. Consultant shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Consultant. The Consultant shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

B. Proof of Insurance. Consultant shall provide a copy of this Agreement to its insurance agent or broker. Consultant may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Consultant certifies that the certificate of insurance attached as **Exhibit 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 Contractors Pollution Liability, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

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

E. Subcontractors and Subconsultants. All subcontractors and subconsultants

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

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. Contractor shall maintain Business Automobile Liability, or its equivalent, with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement. If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy. Transportation coverage under the Contractors Pollution Liability policy shall be an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.

I. Professional Liability (Errors & Omissions). Consultant shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

J. Contractors Pollution Liability. Contractor shall maintain limits of \$1,000,000 per occurrence and \$2,000,000 policy aggregate. Policy to include bodily injury; property damage including loss of use of damaged property; defense costs including costs and expenses incurred in the investigation, defense or settlement of claims; and clean up costs. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

K. Additional Provisions.

(1) For Commercial General Liability, the policy must provide the following:

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

(2) For claims-made coverage:

- a. 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.
- b. 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.

13. DEFENSE AND INDEMNIFICATION:

A. Contractor hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“**Claims**”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Contractor or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

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

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

14. TAXES, CHARGES AND PENALTIES:

A. The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq.* Contractor shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

B. At its sole cost and expense, Contractor shall pay all fines, penalties, fees, charges, and costs resulting from or arising out of management or disposal or both of materials and wastes not compliant with applicable legal and other requirements.

15. COMPLIANCE WITH ALL LAWS AND REGULATIONS:

All of the work performed under this Agreement by Contractor shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado and with the charter, ordinances and rules and regulations of the City and County of Denver.

16. COMPLIANCE WITH PATENT, TRADEMARK AND COPYRIGHT LAWS:

A. Contractor agrees that all work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States. Contractor will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission and all releases and other necessary documents. If Contractor prepares any documents which specify any material, equipment, process or procedure which is protected, Contractor shall disclose such patents, trademarks and copyrights in the construction drawings or specifications.

B. Contractor further agrees to release, indemnify and save harmless the City, its officers, agents and employees, pursuant to Paragraph 12, "Indemnification," from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which infringes upon any patent,

trademark or copyright protected by law.

17. OWNERSHIP OF WORK PRODUCT:

All plans, drawings, reports, other submittals, and other documents submitted to the City or its authorized agents by Contractor shall become and are the property of the City, and the City may, without restriction, make use of such documents and underlying concepts as it sees fit. Contractor shall not be liable for any damage which may result from any use of such documents for purposes other than those described in this Agreement.

18. ADVERTISING AND PUBLIC DISCLOSURES:

Contractor shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the CEO/Executive Director. Any oral presentation or written materials related to DIA shall include only presentation materials, work product, and technical data which have been accepted by the City, and designs and renderings, if any, which have been accepted by the City. The CEO/Executive Director shall be notified in advance of the date and time of any such presentations. Nothing herein, however, shall preclude Contractor's use of this contract and its component parts in GSA form 254 or 255 presentations, or the transmittal of any information to officials of the City, including without limitation, the Mayor, the CEO/Executive Director, any member or members of City Council, and the Auditor.

19. COLORADO OPEN RECORDS ACT:

Contractor acknowledges that the City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes §24-72-201 *et seq.*, and Contractor agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such act for the disclosure of any materials or information which Contractor asserts is confidential and exempt from disclosure. Any other provision of this Agreement notwithstanding, including exhibits, attachments and other documents incorporated into this Agreement by reference, all materials, records and information provided by Contractor to the City shall be considered confidential by the City only to the extent provided in the Open Records Act, and Contractor agrees that any disclosure of information by the City consistent with the provisions of the Open Records Act shall result in no liability of the City.

20. SENSITIVE SECURITY INFORMATION:

Contractor acknowledges that, in the course of performing its work under this Agreement, that it may be given access to Sensitive Security Information (“SSI”), as that material is described in federal regulations, 49 C.F.R. part 1520. Contractor specifically agrees to comply with all requirements of the applicable federal regulations and DIA Standard Policy and Procedure 6003. Contractor understands any questions it may have regarding its obligations with respect to SSI must be referred to the DIA Project Manager or his or her designated representative.

21. AIRPORT SECURITY:

A. It is a material requirement of this Agreement that when performing work at DIA under this Agreement the Contractor shall comply with all rules, regulations, written policies and authorized directives from the City and/or the Transportation Security Administration with respect to Airport security. Contractor shall conduct all of its activities at the Airport in compliance with the Airport security program, which is administered by the Security Section of the Airport Operations Division, Department of Aviation. Violation by Contractor or any of its employees or subcontractors of any rule, regulation, or authorized directive from the City or the Transportation Security Administration with respect to Airport Security shall be grounds for immediate termination by the City of this Contract for cause.

B. Upon execution of this Agreement, Contractor shall promptly meet with the Airport's Assistant Security Manager to establish badging requirements for Contractor's operations under this Agreement. Contractor shall obtain the proper access authorizations for all of its employees and subcontractors who will enter the Airport to perform work or make deliveries, and shall be responsible for each such person's compliance with all Airport rules and regulations, including without limitation those pertaining to security. Any person who violates such rules may be subject to revocation of his/her access authorization. The failure of Contractor to complete any required services hereunder shall not be excused on account of the revocation for good cause of access authorization of any person.

C. The security status of the Airport is subject to change without notice. If the security status of the Airport changes at any time during the term of this Agreement, Contractor shall take immediate steps to comply with security modifications which occur as a result of the changed status. Contractor may at any time obtain current information from the Airport Security Office regarding the Airport's security status in relation to Contractor's operations at the Airport.

D. Contractor shall return to the City at the expiration or termination of this Agreement, or upon demand by the City, all access keys or access badges issued to it for any area of the Airport, whether or not restricted. If Contractor fails to do so, Contractor shall be liable to reimburse the City for all the City's costs for work required to prevent compromise of the Airport security system. The City may withhold funds in the amount of such costs from any amounts due and payable to Contractor under this Agreement

22. TERMINATION:

A. The City has the right to terminate this Agreement without cause on twenty (20) days prior written notice to Contractor, and with cause on ten (10) days prior written notice to Contractor. In the event of termination by the City for cause, Contractor shall be allowed five days to commence remedying its defective performance, and in the event Contractor diligently cures its defective performance to the City's satisfaction, within a reasonable time as determined solely by the City, then this Agreement shall not terminate. However, nothing herein shall be construed as giving Contractor the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the City.

B. If Contractor is discharged before all the services contemplated hereunder have been completed, or if Contractor's services are for any reason terminated, stopped or discontinued

because of the inability of Contractor to provide service under this Agreement, Contractor shall be paid only for those services satisfactorily performed prior to the time of termination.

C. Upon termination of this Agreement by the City, Contractor shall have no claim of any kind whatsoever against the City by reason of such termination or by reason of any act incidental thereto, except as follows: if the termination is for the convenience of the City Contractor shall be entitled to reimbursement for the reasonable cost of the work to the date of termination, and reasonable costs of orderly termination, provided request for such reimbursement is made no later than six (6) months from the effective date of termination. Contractor shall not be entitled to loss of anticipated profits or any other consequential damages as a result of any such termination for convenience, and in no event shall the total sums paid exceed the Contract Amount.

23. NOTICES:

Notwithstanding the above, notices concerning termination of this Agreement, notices of alleged or actual violations of the terms of this Agreement, and other notices of similar importance shall be made as follows:

For DIA, by Contractor to:

CEO of Aviation
Denver International Airport 8500 Peña Boulevard, 9th Floor Denver,
Colorado 80249-6340

For other City agencies, by Contractor to:

Department of Environmental Health Executive Director
200 W. 14th St., suite 300
Denver, CO 80204

And by City to:

E.T. Technologies, Inc.
10000 S. Dransfeldt Road, Suite 100
Parker, CO 80134

Said notices shall either be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. mail. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification thereof.

24. RIGHTS AND REMEDIES NOT WAIVED:

In no event shall any payment by the City hereunder constitute or be construed to be a waiver by

the City of any breach of covenant or default which may then exist on the part of Contractor, and the making of any such payment when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the City with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

25. NO THIRD PARTY BENEFICIARIES:

It is expressly understood and agreed that 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 Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the City and Contractor that any person other than the City or Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

26. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:

Contractor 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 Contractor from City facilities or participating in City operations.

27. CITY SMOKING POLICY:

Contractor and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99 and the Colorado Indoor Clean Air Act, prohibiting smoking in all City buildings and facilities.

28. GOVERNING LAW; BOND ORDINANCES; VENUE:

A. This Agreement is made under and shall be governed by the laws of Colorado. Each and every term, provision or condition herein is subject to the provisions of Colorado law, the Charter of the City and County of Denver, and the ordinances and regulations enacted pursuant thereto.

B. This Agreement is in all respects subject and subordinate to any and all City bond ordinances applicable to the Denver Municipal Airport System and to any other bond ordinances which amend, supplement, or replace such bond ordinances.

C. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

29. FEDERAL PROVISIONS:

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of

which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes and the expenditure of federal funds for the extension, expansion or development of the Denver Municipal Airport System. The provisions of the attached Appendix No. 1 are incorporated herein by reference.

30. CONFLICT OF INTEREST:

Contractor agrees that it and its subsidiaries, affiliates, subcontractors, principals, or employees will not engage in any transaction, activity or conduct which would result in a conflict of interest. Contractor 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 Contractor by placing Contractor's own interests, or the interest of any party with whom Contractor 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 if such a conflict exists, after it has given Contractor written notice which describes such conflict. Contractor shall have thirty days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

31. PROHIBITION AGAINST EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THIS AGREEMENT:

A. The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes and Den. Rev. Municipal Code 20-90 and the Contractor is liable for any violations as provided in said statute and ordinance.

B. The Contractor 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 Contractor 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 subcontractor that fails to certify to the Contractor 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 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 Contractor will also then terminate such subcontractor or subcontractor if within three days after such notice the subcontractor or subcontractor does not stop employing or contracting with the illegal alien, unless during such three day period the subcontractor or subcontractor provides information to establish that the subcontractor 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 CRS § 8-17.5-102(5), or the City Auditor under authority of D.R.M.C. § 20-90.3.

32. ADMINISTRATIVE HEARING:

Disputes arising under or related to this Agreement or the work which is the subject of this Agreement shall be resolved by administrative hearing which shall be conducted in accordance with the procedures set forth in D.R.M.C. Section 5-17. The parties agree that the City's determination resulting from said administrative hearing shall be final, subject only to Contractor's right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

33. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:

This agreement consists of Sections 1 through 33 which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Appendix No. 1:	Standard Federal Assurances
Exhibit A:	Scope of Work
Exhibit B:	Rates
Exhibit C:	List of Key Personnel
Exhibit D:	Certificate of Insurance

In the event of an irreconcilable conflict between a provision of Sections 1 through 33 and any of 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 document shall control to resolve such conflict, is as follows, in descending order:

Appendix No. 1
Sections 1 through 33 hereof
Exhibit A
Exhibit B
Exhibit C

Exhibit D

34. CITY EXECUTION OF AGREEMENT:

This Agreement is expressly subject to, and shall not become effective or binding on the City, until it is fully executed by all signatories of the City and County of Denver. This Agreement may be signed electronically by either party in the manner specified by the City.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Contract Control Number: ENVHL-201627640-00

Contractor Name: E.T. TECHNOLOGIES, INC.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of July 15, 2016.

SEAL



CITY AND COUNTY OF DENVER

ATTEST:

Debra Johnson
Debra Johnson, Clerk and Recorder,
Ex-Officio Clerk of the City and
County of Denver

By Michael B. Hancock
Michael B. Hancock, Mayor

APPROVED AS TO FORM:

Attorney for the City and County of
Denver

By Lindsay Carder
Lindsay Carder, Assistant City
Attorney

REGISTERED AND COUNTERSIGNED:

By Brendan J. Hanlon
Brendan Hanlon, CFO of Finance

By Timothy M. O'Brien
Timothy M. O'Brien, Auditor



Contract Control Number: ENVHL-201627640-00

Contractor Name: E.T. TECHNOLOGIES, INC.

By: Clellan E. Pearce

Name: Clellan E. Pearce
(please print)

Title: President
(please print)

ATTEST: [if required]

By: Cynthia L. Cason

Name: Cynthia L. Cason
(please print)

Title: Asst. Corporate Secretary
(please print)



APPENDIX NO. 1

STANDARD FEDERAL ASSURANCES AND NONDISCRIMINATION

NOTE: As used below the term "contractor" shall mean and include the Contractor, and the term "sponsor" shall mean the "City".

During the term of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, creed, color, sex, national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor of the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

7. NONDISCRIMINATION IN AIRPORT EMPLOYMENT OPPORTUNITIES

The contractor assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. It is unlawful for airport operators and their lessees, tenants, concessionaires and contractors to discriminate against any person because of race, color, national origin, sex, creed, or handicap in public services and employment opportunities.

Exhibit A

Scope of Work

Services that the Contractor may perform:

- A.** Tank system inspection and testing (including confined space entry);
- B.** Tank system parts replacement and repairs to any item or piece of equipment attached to a tank (including piping, dispensers, pumps, wiring, sensors, alarms, and gauges);
- C.** Purchase and installation of new tanks and their system components, either aboveground or underground;
- D.** Disposal of tanks and system components, waste petroleum and related products, and media contaminated by petroleum or related products due to discharges from tanks;
- E.** Temporary and permanent closure of existing tanks; and
- F.** Removal of existing tanks with concomitant tank site testing and assessment for contamination.

Specific Tasks that the Contractor may perform:

- A.** Perform comprehensive visual inspection of aboveground tanks per STI and other applicable industry standards using ICC or equivalent certified staff.
- B.** Perform confined space entry of vaults or tanks to make repairs, perform maintenance, facilitate visual inspection, or to conduct non-destructive material testing.
- C.** Install and repair cathodic protection systems for buried tanks, piping and related tank site infrastructure.
- D.** Prepare detailed reports of findings of comprehensive testing and inspection with recommendations.
- E.** Service pumps and dispensers, perform precision line tightness tests, test automatic leak detectors, cathodic protection systems, perform hydrostatic tank and sump tests, and perform vapor trace investigations according to industry standards and recommended practices.
- F.** Purchase, install, replace, re-program, calibrate, modify, inspect and test electronic and mechanical automatic tank gauges, probes, sensors, alarms, and overfill prevention devices, remote and satellite alarms and read-outs.
- G.** Service proprietary electrical and electronic systems, install new systems, and trouble-shoot and repair systems specific to storage tank operation, including the equipment brands Veeder-Root, Omntec, Incon, Onan-Cummins, and Pneumercator.
- H.** Diagnose, document, and resolve automatic tank gauge systems malfunctions.
- I.** Replace tank gauge liquid level probes and related cabling.
- J.** Perform manual tank gauging and inventory reconciliation.
- K.** Purchase and install containment type aboveground tanks and related protective and operations infrastructure outdoors for dispensing of fuel to equipment.
- L.** Purchase and install containment type aboveground tanks for indoor storage of Class II and Class III petroleum products and related chemicals (such as used oil, hydraulic fluid and antifreeze) with related pumping, piping, and operations infrastructure.
- M.** Renovate aboveground tank systems to meet or exceed standards of protection required by local codes and state regulations, including installation of electronic monitoring and alarm equipment and overfill prevention devices.
- N.** Perform formal comprehensive periodic aboveground storage inspections.
- O.** Temporarily close aboveground tanks (including emptying, inerting and blank-flanging) and stabilize tank vaults for long-term hiatuses in maintenance.
- P.** Permanently close and remove aboveground tanks, related tank infrastructure, including disposal and recycling of discarded tanks and other materials.

- Q.** Stabilize or remove tank vaults, pads and related tank infrastructure, including disposal of concrete and petroleum-contaminated media.
- R.** Fill excavations and pits, re-grade and pave closed tank sites to restore safe facility use and access.
- S.** Sample, assess, and report on impacts to soil and groundwater at tank sites to comply with closure rules in 7 CCR 1101-14 sections 2-5 and 3-4.
- T.** Closely coordinate all tank site testing and initial site investigation actions with state and local agencies.
- U.** Sample, assess, initiate clean-up, and report on suspected or known leaking storage tank sites to comply with 7 CCR 1101-14 article 4.
- V.** Renovate existing aboveground tank installations to meet or exceed spill prevention, control and countermeasure requirements of 40 CFR 112.
- W.** Remove, relocate, and reinstall existing aboveground tanks for purposes of re-use, testing, inspection, reinforcement of bottoms and footings, or installation of structural BMPs for spill control and containment.
- X.** Install structural BMPs (ramps, dikes, interceptors) for control and containment of spills from portable tanks, oil-filled operational equipment and mobile refuelers at permanent facilities to comply with 40 CFR 112.
- Y.** Generate and have professionally certified Spill Prevention Control and Countermeasure plans to comply with 40 CFR 112.
- Z.** Inspect, research, and provide background information on active tanks and related equipment, such as manufacturer's specifications, dimensions, orientations, levels, capacities, and listings.
- AA.** Placard tanks and post signs and labels at tank sites with required and recommended instructions and warning language.
- BB.** Install or repair ground level equipment and infrastructure for UST site and fuel dispenser safety, security, fire and spill prevention, such as bollards, fire extinguishers, and spill response materials.
- CC.** Remove water and other contaminants from fuel tanks.
- DD.** Test fuels for contamination and key characteristics incident to tank system repairs or up-grades.
- EE.** Empty and clean tanks; pump, transfer, and transport petroleum products incident to storage tank repair or closure or preparation for reuse.
- FF.** Replace critical tank system components for compatibility with new products such as E-85 and other bio-fuels.
- GG.** Re-grade and re-pave storage tank site caps and aprons to protect tanks from deterioration due to stormwater infiltration, corrosion, vehicle weights, and collisions.
- HH.** Repair and replace UST ports, risers, spill basins, sumps and ground level access ways.
- II.** Purchase, install, repair, and replace pumps including submerged turbine pumps, rotary suction pumps, diaphragm pumps, pump power controllers and electrical hook-ups and switch-gear.
- JJ.** Purchase, install, repair and replace fuel dispenser cabinets, meters, blenders, sumps, valves and connected piping, hoses, nozzles, and electrical hook-ups.
- KK.** Temporarily close underground storage tanks, including emptying, inerting and blank-flanging.
- LL.** Permanently close underground storage tanks including excavation, over-excavation, soil hauling and disposal, tank and related equipment hauling and recycling or disposal.
- MM.** Compile information and submit applications and reports to state authorities, per regulatorily required formats on tank installation, closure, change-in-service, or removal.
- NN.** Apply for and secure all needed permits from local and state authorities to install, modify, or remove petroleum storage tanks and related infrastructure.
- OO.** Make all needed and required notifications and affirmations to state and federal regulatory agencies regarding tank site actions and conditions.
- PP.** Plan, engineer, and direct construction of new storage tank installations.
- QQ.** Prepare sites for the installation of underground storage tanks, including excavation, and supplying specification backfill material.

- RR.** Purchase and install underground storage tanks, and hardware required for installation and use (deadmen, strapping, sumps, risers).
- SS.** Purchase, install, replace and repair all underground storage tank system related hardware, including spill buckets, OPDs, valves, vents, and sumps.
- TT.** Install all wiring and circuitry required to power tank system equipment and enable tank gauge, sensor, detector, and controller communications.
- UU.** Install all piping, valves, connectors, vents and other conveyances for petroleum products and their vapors, including double-walled rigid fiberglass piping and sumps.
- VV.** Purchase and install dispensers, dispenser sumps, hardscape and barriers associated with dispenser installation.

Services procured under the resulting contract may be used to support specific needs or distinct tasks relating to bulk petroleum (or related chemical) storage, such as removal of orphaned tanks, or characterization, transport and disposal of contaminated soil, that are components of other programs or projects.

EXHIBIT B

RATES

Bid Item	In-House Labor— Professional	\$ per Hour	\$ Above Reported P/W or L/W
1 A	Executive	\$ 95.00	
2 A	Project Manager, Chief Engineer, Geologist-NB	\$ 90.00	
3 A	Project Manager, Chief Engineer, Geologist— UR	\$ 100.00	
4 A	Project Manager, Chief Engineer, Geologist— ER	\$ 100.00	
On-Site Labor— Not subject to prevailing wage			
5 A	Repair Technician, Inspector, Specialized Serviceman— NB	\$ 88.00	
6 A	Repair Technician, Inspector, Specialized Serviceman— UR	\$ 88.00	
7 A	Repair Technician, Inspector, Specialized Serviceman— ER	\$ 95.00	
8 A	Site Foreman, Supervisor, Certified Tank Installer Supervisor— NB	\$ 75.00	
9 A	Site Foreman, Supervisor, Certified Tank Installer Supervisor— UR	\$ 75.00	
10 A	Site Foreman, Supervisor, Certified Tank Installer Supervisor— ER	\$ 85.00	
On-Site Labor— Subject to Prevailing Wage or Living Wage			
Category A (skilled workers, master trades making over \$45.00 per hour)			
11 A	Skilled Worker, Master Tradesperson— NB		\$ 38.00
12 A	Skilled Worker, Master Tradesperson— UR		\$ 40.00
13 A	Skilled Worker, Master Tradesperson— ER		\$ 45.00
Labor Category B (skilled workers, trades, equipment operators making between approximately \$29.00 and \$44.99 per hour)			
14 A	Skilled Worker, Equipment Operator, Tradesperson— NB		\$ 30.00
15 A	Skilled Worker, Equipment Operator, Tradesperson — UR		\$ 32.00
16 A	Skilled Worker, Equipment Operator, Tradesperson — ER		\$ 37.00
Labor Category C (workers, skilled workers, trades, equipment operators, drivers making between approximately \$18.00 and \$28.99 per hour)			

17 A	Worker, Skilled Worker, Tradesman, Equipment Operator, Driver– NB		\$ 30.00
18 A	Worker, Skilled Worker, Tradesman, Equipment Operator, Driver– UR		\$ 32.00
19 A	Worker, Skilled Worker, Tradesman, Equipment Operator, Driver– ER		\$ 37.00
Labor Category D (laborers, simple laborers making up to \$17.99 per hour or Denver Living Wage)			
20 A	Laborer– NB		\$ 30.00
21 A	Laborer– UR		\$ 30.00
22 A	Laborer– ER		\$ 30.00
23 A	Clerical Support (ON SITE ONLY) - subject to Denver's Living Wage		\$ 25.00
24 A	After Hours Site Security Attendant - subject to Denver's Living Wage		\$ 20.00
Other			
25 A	Emergency Response, per event (flat fee for rapid mobilization in addition to existing labor rates)	Flat Fee: \$ 100.00	

P/W= Prevailing Wage, L/W= Living Wage, see: <http://www.denvergov.org/content/denvergov/en/denver-auditor/prevailing-wage.html>

UR= Urgent Response: mobilization and on-scene service weekdays 6 PM to 11 PM

ER= Emergency Response: mobilization and on-scene service weekdays 11 PM to 6 AM, weekends (24hours) and City / national holidays (24 hours).

NB=Normal Business M-F 6AM-6PM

Examples of worker classifications taken from the Denver Prevailing Wage Heavy Construction Project schedule as they are grouped into the Labor Categories listed above:

Labor Category A includes: Electricians, Plumbers and Pipefitters.

Labor Category B includes: Sup'l Rates Truck Drivers Grp 2, Sup'l Rates Laborers Asbestos (Hazmat) Removal, Power Equip Oiler, Power Equip Forklift, Sup'l Rates Power Equip Op'r Grp 1, Power Equip Rough Blade, Power Equip Bulldozer, Power Equip Mechanic, Power Equip Trackhoe (excavator), Power Equip Finish Blade, Sup'l Rates Power Equip Op'r Grp 4.

Labor Category C includes: Carpenter- all other, Power Equip Backhoe, Carpenter Form Bldg and Setting, Power Equip Skid Loader, Cement Mason /Concrete Finisher, Power Equip Front End Loader, Iron Worker reinforcing, Truck Divers Pick-up, Truck Drivers Tandem and Semi and tank.

Labor Category D includes: Laborer Flagger, Laborer Common, Laborer Landscape

	B. Local Transportation Rates/Vehicle ONLY does not include driver: (in Metro-Denver and to area landfills; non-subcontracted; in addition to rental charges)	\$ Per Hour
1 B	Service Truck- Pick-up (up to 1 ton)	\$ 15.00
2 B	Service Truck –Cube or Flat Bed/Stake Bed	\$ 25.00
3 B	Semi-Tractor Trailer	\$ 80.00
4 B	Tandem Dump Truck	\$ 55.00
5 B	Service Truck, Tractor Trailer, or Dump Truck for local transportation <u>surcharge</u> for loads over 1 ton (in one ton increments)	Per Mile Per extra ton \$.12
6 B	Mobilization and demobilization (including cleaning) for Heavy Equipment (tractor trailer, dump truck, and tracked equipment, e.g., excavator, etc.; <u>service truck excluded</u>).	Flat Fee \$ 750.00

	C. Administrative Charges for Sub-Contract Services**	Mark-up %
1 C	Commercial transport.	12 %
2 C	Petroleum product disposal / energy recovery.	12 %
3 C	Contaminated water treatment and disposal.	12 %
4 C	Contaminated soil treatment and disposal.	12 %
5 C	Tanker truck for bulk liquids containment and transport.	12 %
6 C	All other equipment rental (portable tanks, barricades, dumpsters, steel plate, fencing, etc.).	12 %
7 C	Tank system testing and inspection.	12 %
8 C	Trades and special services (electrical, Veeder Root product repair, other electronic repair, underground piping installation, cathodic protection, paving, fencing, utility location, diamond sawing, excavation, etc.).	12 %
9 C	Engineering or Geotechnical Consulting, Drilling, and Site Investigation.	12 %

	D. Procurement Charges**	Mark-up %
1 D	Purchase of tanks (AST and UST), piping, and appurtenances.	12 %
2 D	Purchase of petroleum pumps, meters, and dispensers.	12 %
3 D	Purchase of gauges, probes, sensors and leak detection equipment and software.	12 %
4 D	Purchase of all other durable manufactured items and materials (including concrete, aggregate, pipe, asphalt, lighting, fencing, shelters, manways, etc.).	12 %

	E. Special Equipment Rental Rate** (includes highway trailer, if applicable)	\$ Per Hour	or	Mark-up %
1 E	Trencher	\$ 65		12 %
2 E	Industrial Vacuum (e.g., VACTOR)	\$ 175		12 %
3 E	Compactor, self-propelled	\$ 65		12 %
4 E	Trailer-mounted Air Compressor	\$ 35		12 %

5 E	Trailer-mounted Vacuum	\$ 45 --	12 %
6 E	Trailer-mounted Generator Set	\$ 50 --	12 %
7 E	Fork-Lift with attachments	\$ 45 --	12 %
8 E	Heavy Duty Fork-lift	\$ 55 --	12 %
9 E	Bob-Cat or Skid-Steer	\$ 25 --	12 %
10 E	Mini or Small Excavator	\$ 45 --	12 %
11 E	Standard Size Excavator	\$ 55 --	12 %
12 E	Standard Size Loader / Backhoe, or Bulldozer	\$ 55 --	12 %
13 E	Crane or Boom Truck (under 50 tons)	\$ 225 --	12 %
14 E	Field-ready analytical instruments, meters and detection equipment, and environmental sampling devices.	\$ 20. --	12 %
15 E	Confined-space entry and extrication equipment, SCBA, and level A and B garments	\$ 100.00	12 %
16 E	All other equipment (manually carted equipment, and heavy-duty power tools, e.g., lawn mower, cut-off saw, etc.; "hand-tools" excluded)	\$ 25.00	12 %

F. Sample Pricing for Tank Related Hardware		Pricing As Specified
1 F	Tuthill Fill-Rite 115VAC fuel transfer pump: FR701V with 807C Gallon Mechanical Meter; TOTAL Cost for 6	\$ 4,485 --
2 F	Wayne Select EC model Twin I 3/G742D/2GJK remote dispenser w/pulse output, Bio-diesel compatible, plus painted 'galvanealed' steel doors, two hose masts, 10' hoses and hi-volume (1") automatic shut-off nozzles, no vapor recovery; TOTAL Cost for 2	\$ 15,488 --
3 F	Red Jacket Turbine pump 3/4hp, part number 410140, 3-phase, for 112-inch diameter UST, and Gilbarco/Veeder-Root PLLD; TOTAL Cost for 3	\$ 8,590 --
4 F	Xerxes 1000 gallon DWFRP UST, dry interstice, w/ one STP manway, plus four 4-inch diameter risers, TOTAL Cost for 1	\$ 11,210 --
5 F	Convault 200/300 spilt compartment (500 gallon) UL2085 protected aboveground tank; TOTAL Cost for 2	\$ 19,600 --
6 F	Veeder-Root TLS 350 ATG, configured for two USTs (two inventory probes, six sensors, plus PLLD), and fax/modem communications; TOTAL Cost for 2	\$ 31,696 --
7 F	Veeder-Root TCP/IP communications board for newest TLS350 console; TOTAL Cost for 9	\$ 12,370 --
8 F	OPW model ISC-2115-DEVR Sealable Cover Spill Container, 15 gallon; TOTAL Cost for 5	\$ 4,525 --
9 F	Scully Golden Gallon Gauge w/kevlar string for 36" internal tank height AST on 6" riser; TOTAL Cost for 14	\$ 2,296 --

Note: pass-through of charges / no mark-up of cost for specific services or materials is at the discretion of the successful bidder on any individual approved projects.

Please identify any specific sub-contracted services or procurements that you agree to 'pass-through' to the City without surcharge. Write on lines 1 through 4 below.

However, in all cases charges to the city must be 'at cost', no mark-up for:

- a) Governmental application, permit, and registration fees; and,
- b) Analytical laboratory services and provision of laboratory data and laboratory reports.
(Vendor may charge for sample collection, sample preparation, sample delivery, professional evaluation and interpretation of results, but vendor may not mark-up professional analytical laboratory costs, or charge for normal delivery of results. A copy of the lab charges must accompany an invoice.)

	G. Direct Pass-through
1 G	
2 G	
3 G	
4 G	

**** Vendor must seek Colorado state sales tax exemption, as applicable, for all purchases made on behalf of the City as detailed in Executive Order No. 46 and in "GENERAL CONTRACT CONDITIONS" Title 3, 322.2 thru 322.5**

EXHIBIT C

KEY PERSONNEL

	First and Last Name of Employee	Title within Proposer's Organization
1.	Clellan Pearce	President, Project Director
2.	Cynthia L. Cason	Geologist, Project Manager
3.	John Smith	Project Supervisor
4.	Jim Coplen	Project Supervisor
5.	Dan Smith	Project Supervisor



EXHIBIT D

ETTECHN-01

TIMG

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/27/2016

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

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

PRODUCER Bruce F Grau & Associates Inc 117 Church Lane Hunt Valley, MD 21030	CONTACT NAME: PHONE (A/C, No, Ext): (410) 666-5911 FAX (A/C, No): (410) 667-4667 E-MAIL ADDRESS:
	INSURER(S) AFFORDING COVERAGE INSURER A : COLONY INSURANCE COMPANY INSURER B : ALLMERICA FINANCIAL BENEFIT INS CO INSURER C : INSURER D : INSURER E : INSURER F :
INSURED E.T. Technologies, Inc. 4940 Campbell Boulevard Suite 100 Baltimore, MD 21236	NAIC # 39993 41840

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☒ LOC OTHER:	X	X	PACE302937	01/01/2016	01/01/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	☒ AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS HIRED AUTOS \$1,000 Comp. Ded. ☒ SCHEDULED AUTOS NON-OWNED AUTOS \$1,000 Coll. Ded. ☒	X	X	AWQ8976023	01/01/2016	01/01/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 0			EXC302938	01/01/2016	01/01/2017	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Pollution Liability			PACE302937	01/01/2016	01/01/2017	\$1MM occ / \$2MM agg
A	Professional Liab			PACE302937	01/01/2016	01/01/2017	\$10,000 Deductible 1,000,000

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

RE: CCoD Tank Technical Services Contract #201627640

As required by written contract, the City and County of Denver, its elected and appointed officials, employees, and volunteers are included as Additional Insured.

CERTIFICATE HOLDER**CANCELLATION**

City & County of Denver 200 West 14th Ave. Suite 300 Denver, CO 80204	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

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PRODUCER
Pinnacol Assurance
7501 E Lowry Blvd
Denver, CO 80230-7006

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY
AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS
CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE
COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC#

INSURED
E.T. Technologies Inc
10000 S Dransfeldt Rd Ste 100
Parker, CO 80134

INSURER A: Pinnacol Assurance

41190

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGES

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	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YYYY)	POLICY EXPIRATION DATE(MM/DD/YYYY)	LIMITS	
		GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR _____ GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC				EACH OCCURRENCE DAMAGE TO RENTED PREMISES MED EXP(Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	
		AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS _____				COMBINED SINGLE LIMIT (Ea Accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	
		GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN EA ACC AUTO ONLY: AGG	
		EXCESS/UMBRELLA LIABILITY ☐ OCCUR ☐ CLAIMS MADE _____ DEDUCTIBLE RETENTION \$				EACH OCCURRENCE AGGREGATE _____ _____	
A		WORKERS COMPENSATION AND EMPLOYER'S LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, please describe under SPECIAL PROVISIONS below	2200612	01/01/2016	01/01/2017	☒ WC STATU- ☐ OTHER TORY LIMITS E.L EACH ACCIDENT \$2,000,000 E.L DISEASE - EA EMPLOYEE \$2,000,000 E.L DISEASE - POLICY LIMIT \$2,000,000	
		OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Contract #: 201627640

CERTIFICATE HOLDER

1699878
City and County of Denver
200 West 14th Avenue
Suite 300
Denver, CO 80204

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE
THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO
NOTIFY 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO
THE LEFT, BUT FAILURE TO NOTIFY SUCH NOTICE SHALL IMPOSE NO
OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR
REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Daniel Benson
Underwriter

ACORD CORPORATION 1988