

THIRD AMENDATORY AGREEMENT

THIS THIRD AMENDATORY AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **ENGINEERING MANAGEMENT SUPPORT, INC.**, a Colorado corporation, with its principal place of business located at 7220 W. Jefferson Avenue, Suite 406, Lakewood, CO 80235, (the “Consultant”), collectively “the Parties”.

RECITALS

A. The City and the Consultant entered into an Agreement dated October 30, 2012 (together with amendments, “the Agreement”) to continue to provide expert environmental support in relation to Operable Unit 2 of the Vasquez Boulevard/I-70 Superfund (VB/I-70) Site from the Consultant.

B. The City and the Consultant entered into an Amendatory Agreement dated September 13, 2013 to extend the term of the agreement and to revise the fee schedule.

C. The City and the Consultant entered into a Second Amendatory Agreement dated September 10, 2014 to extend the term of the agreement.

D. The City and Consultant wish to amend the Agreement to again extend the term, revise the fee schedule, and to increase the maximum amount of the contract.

NOW, THEREFORE, the parties hereby agree as follows:

1. Paragraph 3 of the Agreement, entitled “**TERM**”, is amended to read as follows:

3. TERM: The Agreement will commence on August 29, 2012 and will expire on August 29, 2018 (the “Term”). Subject to the Manager’s prior written authorization, the Consultant shall complete any work in progress as of the expiration date and the

Term of the Agreement will extend until the work is completed or earlier terminated by the Manager.”

2. Paragraph 4 of the Agreement, entitled “**COMPENSATION AND PAYMENT**”, is amended to read as follows:

“4. **COMPENSATION AND PAYMENT:**

a. As full compensation for all services rendered and costs incurred, the Consultant will be paid the lesser of a maximum fee to be set forth in each Task Order, or Change Order thereto, or an amount set forth in monthly invoices. The City’s maximum contract liability will not exceed **ONE MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$1,950,000.00)**. During the term of the Agreement, and any extensions thereto, amounts billed for services rendered and costs incurred may not exceed the hourly rates and unit costs provided in **Exhibit B, B-1, and B-2**, as applicable. Only those expenses expressly stated in Exhibit B, B-1, and B-2, as applicable, are reimbursable. The Consultant is responsible for all other costs and expenses.

b. **Invoicing:** Consultant shall provide the City with a monthly invoice identifying the work performed, reimbursable expenses, time period covered thereby, and any additional information the City requires in a format and with a level of detail acceptable to the City including all supporting documentation required by the City. The City’s Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

c. **Maximum Contract Amount:**

(1) Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **ONE MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$1,950,000.00)** (the “Maximum Contract Amount”). The City is not obligated to execute an Agreement or any amendments for any further

services, including any services performed by Consultant beyond that specifically described in herein. Any services performed beyond those in set forth herein are performed at Consultant's risk and without authorization under the Agreement.

(2) The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City."

3. The Billing Rates and Reimbursable Expenses, marked and attached as Exhibit B-2 and incorporated herein by reference, shall be effective for fees and expenses incurred on and after the date of execution of this amendment.

4. Except as amended herein, the Agreement is affirmed and ratified in each and every particular.

[Signatures appear on the following pages.]

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-201207388-03


Contractor Name: ENGINEERING MGMT SUPPORT INC

By: Timothy C Shand

Name: TIMOTHY C SHAND
(please print)

Title: VICE - PRESIDENT
(please print)

ATTEST: [if required]

By: 

Name: PAUL ROSASCO
(please print)

Title: President
(please print)



B-2

Billing Rates and Reimbursable Expenses
Contract Control Number #ENVHL-201207388-03
ENGINEERING MANAGEMENT SUPPORT, INC.

Fee Schedule

Labor:

Office labor rate (all personnel)	\$140 / hour
Field labor rate (all personnel)	\$120 / hour
Expert witness rate:	
Non-testifying	\$200 / hour
Testimony	\$350 / hour

Expenses:

Vehicle mileage \$0.565 / mile (adjusted per current Federal government rate per mile)

Field vehicle \$100 / day

Field equipment:

PID/FID	\$100 / day
Temp-SC-pH-DO-ORP meter	\$50 / day
CGI/LEL meter	\$20 / day
Water level meter	\$20 / day
Expendable field equipment/supplies	Cost plus 10%

Outside services/equipment rental and subcontracted services Cost plus 10%

Copying (in house):

Black & white	\$0.05 per page
Color	\$1.00 per page

The above unit rates and costs include all overhead costs including costs for sending or receiving facsimiles, cellular telephone time, and computer processing time.

These unit prices will be fixed for the duration of the Stormwater Design and Construction Project.