

PURCHASE OF SERVICE AGREEMENT

THIS AGREEMENT ("Agreement") is made this 24th day of May 2016, by and between the Adams County Board of County Commissioners, located at 4430 South Adams County Parkway, Brighton, Colorado 80601, hereinafter referred to as the "County," and Ground Engineering Consultants, Inc., located at 7393 Dahlia Street, Commerce City, CO 80022 hereinafter referred to as the "Contractor." The County and the Contractor may be collectively referred to herein as the "Parties".

The County and the Contractor, for the consideration herein set forth, agree as follows:

1. SERVICES OF THE CONTRACTOR:

- 1.1. All work shall be in accordance with the attached RFP 2016.403 Materials Testing and Inspection Services – 2016 Capital Improvement Projects and the Contractor's response to the RFP 2016.403 attached hereto as Exhibit A, and incorporated herein by reference. Should there be any discrepancy between Exhibit A and this Agreement the terms and conditions of this Agreement shall prevail.
- 1.2. Emergency Services: In the event the Adams County Board of County Commissioners declares an emergency, the County may request additional services (of the type described in this Agreement or otherwise within the expertise of the Contractor) to be performed by the Contractor. If the County requests such additional services, the Contractor shall provide such services in a timely fashion given the nature of the emergency, pursuant to the terms of this Agreement. Unless otherwise agreed to in writing by the parties, the Contractor shall bill for such services at the rates provided for in this Agreement.

2. RESPONSIBILITIES OF THE COUNTY: The County shall provide information as necessary or requested by the Contractor to enable the Contractor's performance under this Agreement.

3. TERM:

- 3.1. Term of Agreement: The Term of this Agreement shall be for one year and commence upon receipt of Notice to Proceed.
- 3.2. Extension Option: The County, at its sole option, may offer to extend this Agreement as necessary for up to two, one year extensions providing satisfactory service is given and all terms and conditions of this Agreement have been fulfilled. Such extensions must be mutually agreed upon in writing by the County and the Contractor.

4. PAYMENT AND FEE SCHEDULE: The County shall pay the Contractor for services furnished under this Agreement, and the Contractor shall accept as full payment for those services, the sum of three hundred twenty-eight thousand dollars (\$328,000.00).

- 4.1. Payment pursuant to this Agreement, whether in full or in part, is subject to and contingent upon the continuing availability of County funds for the purposes hereof. In

the event that funds become unavailable, as determined by the County, the County may immediately terminate this Agreement or amend it accordingly.

5. **INDEPENDENT CONTRACTOR:** In providing services under this Agreement, the Contractor acts as an independent contractor and not as an employee of the County. The Contractor shall be solely and entirely responsible for his/her acts and the acts of his/her employees, agents, servants, and subcontractors during the term and performance of this Agreement. No employee, agent, servant, or subcontractor of the Contractor shall be deemed to be an employee, agent, or servant of the County because of the performance of any services or work under this Agreement. The Contractor, at its expense, shall procure and maintain workers' compensation insurance as required by law. Pursuant to the Workers' Compensation Act § 8-40-202(2)(b)(IV), C.R.S., as amended, the Contractor understands that it and its employees and servants are not entitled to workers' compensation benefits from the County. The Contractor further understands that it is solely obligated for the payment of federal and state income tax on any moneys earned pursuant to this Agreement.

6. **NONDISCRIMINATION:**

6.1. **The Contractor shall not discriminate against any employee or qualified applicant for employment because of age, race, color, religion, marital status, disability, sex, or national origin. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices provided by the local public agency setting forth the provisions of this nondiscrimination clause. Adams County is an equal opportunity employer.**

6.1.1. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

7. **INDEMNIFICATION:** The Contractor agrees to indemnify and hold harmless the County, its officers, agents, and employees for, from, and against any and all claims, suits, expenses, damages, or other liabilities, including reasonable attorney fees and court costs, arising out of damage or injury to persons, entities, or property, caused or sustained by any person(s) as a result of the Contractor's negligent performance or failure to perform pursuant to the terms of this Agreement or as a result of any subcontractors' performance or negligent failure to perform pursuant to the terms of this Agreement.

8. **INSURANCE:** The Contractor agrees to maintain insurance of the following types and amounts:

8.1. **Commercial General Liability Insurance:** to include products liability, completed operations, contractual, broad form property damage and personal injury.

8.1.1. Each Occurrence: \$1,000,000

8.1.2. General Aggregate: \$2,000,000

8.2. **Comprehensive Automobile Liability Insurance:** to include all motor vehicles owned, hired, leased, or borrowed.

- 8.2.1. Bodily Injury/Property Damage: \$1,000,000 (each accident)
- 8.2.2. Personal Injury Protection: Per Colorado Statutes

8.3. Workers' Compensation Insurance: Per Colorado Statutes

8.4. Professional Liability Insurance: to include coverage for damages or claims for damages arising out of the rendering, or failure to render, any professional services, as applicable.

8.4.1. Each Occurrence: \$1,000,000

8.4.2. This insurance requirement applies only to the Contractors who are performing services under this Agreement as professionals licensed under the laws of the State of Colorado, such as physicians, lawyers, engineers, nurses, mental health providers, and any other licensed professionals.

8.5. Adams County as "Additional Insured": The Contractor's commercial general liability, and comprehensive automobile liability, insurance policies and/or certificates of insurance shall be issued to include Adams County as an "additional insured" and shall include the following provisions:

8.5.1. Underwriters shall have no right of recovery or subrogation against the County, it being the intent of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses resulting from the actions or negligence of the Contractor.

8.5.2. The insurance companies issuing the policy or policies shall have no recourse against the County for payment of any premiums due or for any assessments under any form of any policy.

8.5.3. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Contractor.

8.6. Licensed Insurers: All insurers of the Contractor must be licensed or approved to do business in the State of Colorado. Upon failure of the Contractor to furnish, deliver and/or maintain such insurance as provided herein, this Agreement, at the election of the County, may be immediately declared suspended, discontinued, or terminated. Failure of the Contractor in obtaining and/or maintaining any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification.

8.7. Endorsement: Each insurance policy herein required shall be endorsed to state that coverage shall not be suspended, voided, or canceled without thirty (30) days prior written notice by certified mail, return receipt requested, to the County.

8.8. Proof of Insurance: At any time during the term of this Agreement, the County may require the Contractor to provide proof of the insurance coverage or policies required under this Agreement.

9. WARRANTY

9.1. ~~The Contractor warrants and guarantees to the County that all work, equipment, and materials furnished under the Agreement are free from defects in workmanship and materials for a period of one year after final acceptance by the County. The Contractor~~

~~further warrants and guarantees that the plans and specifications incorporated herein are free of fault and defect sufficient for Contractor to warrant the finished product after completion date. Should the Contractor fail to proceed promptly in accordance with this guarantee, the County may have such work performed at the expense of the Contractor. This section does not relieve the Contractor from liability for defects that become known after one year.~~

10. TERMINATION:

- 10.1. **For Cause:** If, through any cause, the Contractor fails to fulfill its obligations under this Agreement in a timely and proper manner, or if the Contractor violates any of the covenants, conditions, or stipulations of this Agreement, the County shall thereupon have the right to immediately terminate this Agreement, upon giving written notice to the Contractor of such termination and specifying the effective date thereof.
- 10.2. **For Convenience:** The County may terminate this Agreement at any time by giving written notice as specified herein to the other party, which notice shall be given at least thirty (30) days prior to the effective date of the termination. If this Agreement is terminated by the County, the Contractor will be paid an amount that bears the same ratio to the total compensation as the services actually performed bear to the total services the Contractor was to perform under this Agreement, less payments previously made to the Contractor under this Agreement.

11. MUTUAL UNDERSTANDINGS:

- 11.1. **Jurisdiction and Venue:** The laws of the State of Colorado shall govern as to the interpretation, validity, and effect of this Agreement. The parties agree that jurisdiction and venue for any disputes arising under this Agreement shall be with Adams County, Colorado.
- 11.2. **Compliance with Laws:** During the performance of this Agreement, the Contractor agrees to strictly adhere to all applicable federal, state, and local laws, rules and regulations, including all licensing and permit requirements. The parties hereto aver that they are familiar with § 18-8-301, *et seq.*, C.R.S. (Bribery and Corrupt Influences), as amended, and § 18-8-401, *et seq.*, C.R.S. (Abuse of Public Office), as amended, , the Clean Air Act (42 U.S.C. 7401-7671q), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended, and that no violation of such provisions are present. The Contractor warrants that it is in compliance with the residency requirements in §§ 8-17.5-101, *et seq.*, C.R.S. Without limiting the generality of the foregoing, the Contractor expressly agrees to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- 11.3. **OSHA:** The Contractor shall comply with the requirements of the Occupational Safety and Health Act (OSHA) and shall review and comply with the County's safety regulations while on any County property. Failure to comply with any applicable federal, state or local law, rule, or regulation shall give the County the right to terminate this agreement for cause.
- 11.4. **Record Retention:** The Contractor shall maintain records and documentation of the 2016.403 Materials Testing and Inspection Services-CIP Project/Ground Engineering

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services provided under this Agreement, including fiscal records, and shall retain the records for a period of three (3) years from the date this Agreement is terminated. Said records and documents shall be subject at all reasonable times to inspection, review, or audit by authorized Federal, State, or County personnel.

- 11.5. Assignability: Neither this Agreement, nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable by the Contractor without the prior written consent of the County.
- 11.6. Waiver: Waiver of strict performance or the breach of any provision of this Agreement shall not be deemed a waiver, nor shall it prejudice the waiving party's right to require strict performance of the same provision, or any other provision in the future, unless such waiver has rendered future performance commercially impossible.
- 11.7. Force Majeure: Neither party shall be liable for any delay or failure to perform its obligations hereunder to the extent that such delay or failure is caused by a force or event beyond the control of such party including, without limitation, war, embargoes, strikes, governmental restrictions, riots, fires, floods, earthquakes, or other acts of God.
- 11.8. Notice: Any notices given under this Agreement are deemed to have been received and to be effective: 1) Three (3) days after the same shall have been mailed by certified mail, return receipt requested; 2) Immediately upon hand delivery; or 3) Immediately upon receipt of confirmation that an E-mail was received. For the purposes of this Agreement, any and all notices shall be addressed to the contacts listed below:

Department: Adams County Transportation Department

Contact: Jeff Maxwell, Director

Address: 4430 South Adams County Parkway

City, State, Zip: Brighton, CO 80601

Phone: 720-523-6817

E-mail: jmaxwell@adcogov.org

Department: Adams County Purchasing

Contact: Liz Estrada, Contract Administrator

Address: 4430 South Adams County Parkway

City, State, Zip: Brighton, Colorado 80601

Phone: 720-523-6052

E-mail: lestrada@adcogov.org

Department: Adams County Attorney's Office

Address: 4430 South Adams County Parkway

City, State, Zip: Brighton, Colorado 80601

Phone: 720.523.6116

Ground Engineering Consultants, Inc.

Contact: James Kowalsky, P.E.

Address: 7393 Dahlia Street.

City, State, Zip: Commerce City, CO 80301

Phone: 303-289-1989

E-mail: jkowalsky@groundeng.com

- 11.9. **Integration of Understanding:** This Agreement contains the entire understanding of the parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by the parties hereto.
- 11.10. **Severability:** If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect, unless otherwise terminated in accordance with the terms contained herein.
- 11.11. **Authorization:** Each party represents and warrants that it has the power and ability to enter into this Agreement, to grant the rights granted herein, and to perform the duties and obligations herein described.
- 11.12. **Confidentiality:** All documentation related to this Agreement will become the property of Adams County. All documentation maintained or kept by Adams County shall be subject to the Colorado Open Records Act, C.R.S. 24-72-201 *et seq.* ("CORA"). The County does not guarantee the confidentiality of any records.

12. CHANGE ORDERS OR EXTENSIONS:

- 12.1. **Change Orders:** The County may, from time to time, require changes in the scope of the services of the Contractor to be performed herein including, but not limited to, additional instructions, additional work, and the omission of work previously ordered. The Contractor shall be compensated for all authorized changes in services, pursuant to the applicable provision in the Invitation to Bid, or, if no provision exists, pursuant to the terms of the Change Order.
- 12.2. **Extensions:** The County may, upon mutual written agreement by the parties, extend the time of completion of services to be performed by the Contractor.
13. **COMPLIANCE WITH C.R.S. § 8-17.5-101, ET. SEQ. AS AMENDED 5/13/08:** Pursuant to Colorado Revised Statute (C.R.S.), § 8-17.5-101, *et. seq.*, as amended May 13, 2008, the Contractor shall meet the following requirements prior to signing this Agreement (public contract for service) and for the duration thereof:
- 13.1. The Contractor shall certify participation in the E-Verify Program (the electronic employment verification program that is authorized in 8 U.S.C. § 1324a and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program) or the Department Program (the employment verification program established by the Colorado Department of Labor and Employment pursuant to C.R.S. § 8-17.5-102(5)) on the attached certification.
- 13.2. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.
- 13.3. The Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

- 13.4. At the time of signing this public contract for services, the Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program.
- 13.5. The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.
- 13.6. If the Contractor obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall: notify the subcontractor and the County within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to the previous paragraph, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- 13.7. Contractor shall comply with any reasonable requests by the Department of Labor and Employment (the Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
- 13.8. If Contractor violates this Section, of this Agreement, the County may terminate this Agreement for breach of contract. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the County.

The remainder of this page is left blank intentionally.

IN WITNESS WHEREOF, the Parties have caused their names to be affixed hereto:

Board of County Commissioners

[Signature]
Chairperson

May 24, 2016
Date

Ground Engineering Consultants, Inc.

[Signature]
Signature

May 17, 2016
Date

Thomas L. Buel
Printed Name

Senior Project Manager
Title

Attest:

Stan Martin, Clerk and Recorder

[Signature]
Deputy Clerk

Approved as to Form:

[Signature]
Adams County Attorney's Office

NOTARIZATION OF CONTRACTOR'S SIGNATURE:

COUNTY OF Arapahoe

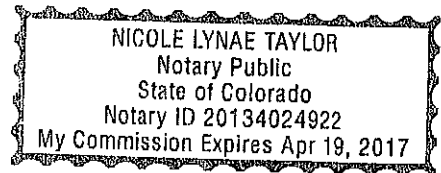
STATE OF Colorado)SS.

Signed and sworn to before me this 17th day of May, 2016,

by Thomas Buel

[Signature]
Notary Public

My commission expires on: 4/19/17





**PROPOSAL FORM
2016.403 MATERIALS TESTING AND INSPECTION SERVICES
2016 CAPITAL IMPROVEMENT PROJECTS**

CONTRACTOR'S STATEMENT

I have read and fully understand all the special conditions herein set forth in the foregoing paragraphs, and by my signature set forth hereunder, I hereby agree to comply with all said special conditions as stated or implied. In consideration of the above statement, the following proposal is hereby submitted.

Written Amount _____ \$ _____
Amount

WE, THE UNDERSIGNED, HEREBY ACKNOWLEDGE RECEIPT OF

Addenda # NONE Addenda # _____
If None, Please write NONE.

Ground Engineering Consultants, Inc.	2/19/16
Company Name	Date
7393 Dahlia Street	<i>James Kowalsky</i>
Address	Signature
Commerce City, Colorado 80022	James Kowalsky, P.E.
City, State, Zip Code	Printed Name
Adams	Vice
County	President
303-289-1989	303-289-6742
Telephone	Fax
jim.kowalsky@groundeng.com	
Email Address	

GROUND ENGINEERING

FEE SCHEDULE - CONSTRUCTION SERVICES

Cu_15-2018 C1.1_0

MATERIAL TESTING AND SPECIAL INSPECTION

• Soils Testing Engineering Technician (hourly)	\$45.00
• Concrete Testing Engineering Technician (hourly)	\$45.00
• Asphalt Testing Engineering Technician (hourly)	\$45.00
• Rebar, Masonry, PT, Fireproofing Special Inspection (hourly)	\$45.00
• Deep Foundation Special Inspection (hourly)	\$45.00
Quality Control Inspector	\$85.00
• Project Manager - Review, Supervision, Meetings (hourly)	\$85.00
• Overtime (Over 8hrs/day, weekends, nights after 6pm)	hourly rate + \$15.00
• Trip Charge (covers vehicle and equipment)	\$0.00

ENGINEERING AND SPECIALTY SERVICES

• Principal Engineer (hourly)	\$175.00
• Project Engineer, Weld Engineer or Geologist (hourly)	\$105.00
• Staff/Field Engineer (hourly)	\$85.00
• ICC Building Inspection (D.F.S. Approved) (hourly)	\$75.00
• CAD Technician (hourly)	\$75.00
• Special Consultation, Expert Testimony and Court Appearance (hourly)	Quote
• Interest charged after 30 days from invoice date	1.5%

MISCELLANEOUS

• Vehicle Mileage	Quote	• Mobile Laboratory	Quote
• Daily Rates	Quote	• Outside Laboratory Services	Quote
• Out-of-town living expenses, commercial travel costs, equipment rental, etc.	Quote	• Vibration Monitoring/Geotechnical Instrumentation Services, Thermal Conductivity and Resistivity	Quote
• Pile Dynamic Analysis, Ground Penetrating Radar, Cross Hole Sonic Logging, Sonic Echo, Falling Weight Deflectometer	Quote		

LABORATORY TESTING

Standard Proctor Compaction (ASTM D 698)	\$100.00	Concrete Compression Test, Cylinders (each)	\$14.00
Modified Proctor Compaction (ASTM D 1557)	\$110.00	Concrete Flexural Test, Beams	\$55.00
Check Point Proctor	\$60.00	Maturity Data Logger (each)	\$75.00
Natural Density and Moisture Content	\$15.00	Moisture Coupons (each)	\$50.00
Specific Gravity (ASTM D 854)	\$65.00	Relative Humidity Sensors (ASTM F2170) (each)	\$75.00
Gradation Analysis (ASTM D 422)		Shotcrete Cores (each)	\$75.00
a. All Standard Sieve to #200 Sieve	\$60.00	Maturity Meter Strength Correlation	Quote
b. Percent Less Than #200 Sieve	\$35.00		
c. Gradation with Hydrometer	\$135.00	Asphalt - Ignition and Gradation Tests	\$160.00
"R"-Value (ASTM D 2844)	\$350.00	Marshall Properties	\$200.00
Atterberg Limit (ASTM D 4318)	\$65.00	Mix Verification Gyrotory Compaction, 3 points	\$250.00
Soil Stabilization Strength Specimens (set of 3)	\$250.00	Theoretical Maximum Specific Gravity (ASTM D 2041)	\$100.00
pH Test	\$50.00	Loftman Test (CP L-6109)	\$325.00
Water Soluble Sulfates Test	\$50.00	Ignition Oven Calibration	\$225.00
Permeability		Bulk Specific Gravity - Asphalt	\$40.00
a. Falling or Constant Head, 2-4" Diameter	\$250.00	Coring - Asphalt (Hourly +rate X in.dia X in.depth X No. cores)	\$1.50
b. Triaxial Permeability	\$375.00	Asphalt and Concrete Mixture Analysis	Quote
Freeze-Thaw Test	\$500.00		
Swell-Consolidation (loaded to 10,000 psf)	\$85.00	Sand Equivalent (ASTM D 2419)	\$95.00
Direct Shear, Unconsolidated-Undrained (Quick Test, 3 pt)	\$375.00	Relative Density (ASTM D 2049)	\$200.00
Soil Stabilization Mixture Analysis	Quote	Clay Lumps and Friable Particles (ASTM C 142)	\$45.00
		Flat or Elongated Particles (D 4791)	\$60.00
Mortar Cubes (each)	\$20.00	Sulfate Soundness (ASTM C 88)	\$200.00
Masonry Prisms (each)	\$85.00	Fractured Faces Test	\$60.00
Grout Specimens (each)	\$30.00	Los Angeles Abrasion Test	\$150.00
Compressive Strength CMU/Brick Coupon	\$50.00	Uncompacted Voids Test	\$95.00
		Aggregate Specific Gravity	\$65.00