

file

**Hirsbrunner, Dawne**

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**From:** Dan Sheldon [dan@gsvcolorado.com]  
**Sent:** Monday, August 17, 2009 4:10 PM  
**To:** mruhland@miller-rosenbluth.com, Blodgett, Bob, Hirsbrunner, Dawne  
**Cc:** jessicar@groundeng.com, Ron Lambert  
**Subject:** PJMD - VCOS - Ground Engineering - Phase I Environmental  
**Attachments:** Ground Engineering Consultants Inc - Fully Executed 0d81709.pdf

All

Attached is a fully executed agreement between the District and Ground Engineering and the Addendum thereto

Thanks

**Daniel R. Sheldon, Principal**  
GRANT STREET VENTURES, LLC  
9145 E Kenyon Avenue, Suite 320  
Denver, Colorado 80237  
Direct (303) 835-8223  
Cell (303) 886-2838  
Fax (720) 222-8642  
Email [dan@gsvcolorado.com](mailto:dan@gsvcolorado.com)

8/18/2009

VCS  
Juehly

August 5, 2009

Subject: Proposal for Professional Services, Phase I Environmental Site Assessment, Southwest of the Intersection of East Broncos Parkway and South Parker Road, Aurora, Colorado.

Proposal Number 0908-1182

**Mr Bob Blodgett**  
Parker Jordan Metro District  
C/o RS Wells  
8390 E. Crescent Parkway, #500  
Greenwood Village, Colorado, 80111

Dear Mr. Blodgett,

GROUND Engineering Consultants, Inc. (GROUND) is pleased to submit a proposal to conduct a Phase I Environmental Site Assessment (Phase I ESA) for the Property southwest of the intersection of East Broncos Parkway and South Parker Road identified as parcel number 2073-32-1-00-021 (Property). The parcel consists of 80.310 acres of land. The purpose of the proposed Phase I ESA is to identify, to the extent feasible, the possible presence of hazardous materials (recognized environmental conditions), either on-site or off-site, which could affect the subject Property. Based on the Arapahoe County Assessors website as well as information provided by a representative the Client, it appears as though the Property is currently vacant. In the event this is not the case, GROUND must be contacted prior to commencing work on this study.

#### Proposed Scope of Work

The Phase I ESA will be performed in general accordance with ASTM Standard Practice, Phase I Environmental Site Assessment Process, 1527-05. This standard practice fulfills the statutory requirements of the U.S. Environmental Protection Agency's All Appropriate Inquiries Final Rule (November 1, 2005) and has been recognized as consistent with the Final Rule. All Appropriate Inquiries must be conducted in compliance with either of these standards to obtain protection from potential liability under CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) as an innocent landowner, a contiguous property owner, or a bona fide prospective purchaser. Please note, performance of this study does not guarantee liability protection. The Standard is not intended to address any post-acquisition continuing obligations.

An evaluation of *business environmental risk* associated with a parcel of commercial real estate may necessitate investigation beyond that identified by this practice. The goal of the Phase I ESA is to identify obvious *recognized environmental conditions* associated with the real estate for which the assessment is being conducted.

## **GROUND**

### **ENGINEERING CONSULTANTS INC.**

41 Inverness Drive East, Englewood, CO 80112-5412 Phone (303) 289-1989 Fax (303) 289-1686 www.groundeng.com  
Office Locations Englewood • Commerce City • Loveland • Granby • Gypsum • Grand Junction • Casper

The term *recognized environmental condition*, as defined by the ASTM Standard, means the presence or likely presence of any hazardous substance(s) or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substance(s) or petroleum products into structures on the property or into the ground, groundwater or surface water of the property, arising from the evaluation of practically reviewable information. The term includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include *de minimus* conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. Conditions determined to be *de minimus* are not recognized environmental conditions. The scope of this Phase I ESA is limited to the scope set forth by the E 1527-05 standard practice and any additional limitation either indicated or implied by this proposal as well as that indicated at the time of our final report.

It is not possible to guarantee through any process that a property is free from contamination without testing every square inch of the property for every conceivable hazardous substance, which would obviously be prohibitively expensive. Additionally, due to the inherent limits of time and cost, uncertainty about site conditions will always remain. No environmental site assessment can wholly eliminate uncertainty regarding the potential for recognized environmental conditions. The ASTM standard is designed to reduce, but not eliminate this uncertainty.

Users of this proposed assessment should be aware that there are likely to be other legal obligations with regard to any *hazardous substances* or *petroleum products* discovered on the Property that are not addressed by this assessment and that may pose risks of civil and/or criminal sanctions for non-compliance. The Client should be aware that a finding of no "recognized environmental conditions" is not a warranty or guarantee that the Property remains free from contamination. Additionally, a Phase I Environmental Site Assessment conducted in general accordance with the ASTM standard does not provide any guarantee or warranty that the Property is "clean" and recognized environmental conditions could exist that may not be discoverable by implementing the ASTM E 1527 standard.

Specific work scope tasks include:

- (1) Perform a regulatory agency records search (database), including the review of records from searches of databases for spill incidents or adverse soil or groundwater concerns related to the site or surrounding properties. The records search may include but is not necessarily limited to the review of agency records for NPL and CERLIS sites, TSD facilities, UST and LUST sites, RCRA violations, and state landfills per the search radii specified in the ASTM Standard E 1527-05. GROUND will utilize Environmental Data Resources, Inc. (EDR, Inc.), a national provider of environmental information, as well as applicable state and local entities/resources where required.

- (2) Perform a review of the site's general physical setting. As available, historical maps and reports will be reviewed in order to provide a descriptive physical setting of the subject Property. Information generally included in the physical setting includes topography, soils and geology, and groundwater.
- (3) Perform a review of prior site land use. As available, historical maps (e.g., Sanborn, U.S.G.S topographic, and/or planning maps) and street directories will be reviewed for indications of obvious adverse environmental condition(s) associated with the Property. Aerial photography will also be attempted to be reviewed. If practicably reviewable historical information, in the form of maps and street directories, is not available to establish a reasonable history of the parcel for the past 50 years, other historical information may be reviewed.
- (4) Perform a site reconnaissance. The site reconnaissance will be performed to evaluate general environmental conditions at the Property and adjoining properties and attempt to visually identify conditions/activities at the Property/adjoining properties, which may contain/use hazardous substances, such as tanks for storing petroleum products, or other conditions/activities, which may represent a potential concern for adversely impacting the subject Property. Access to the existing building is required, as we need to inspect inside the facility.
- (5) Where necessary and practical, interviews with knowledgeable individuals (past and present Property owners, operators, and occupants) regarding environmental conditions of the Property will be attempted/performed as well as information regarding recorded environmental cleanup liens against the facility. A brief discussion regarding the relationship of the purchase price to the value of the Property, if the Property was not contaminated, will also be provided.
- (6) Prepare a written report presenting our findings and conclusions. Three copies of the report will be submitted. Additional copies are available for an additional fee.

**Out-of-Scope Activities**

The following activities/subjects will not be performed/identified by the above-presented scope of work and estimated fee of the proposed Phase I ESA unless expressly requested as out-of-scope activities. This list is not all-inclusive.

- Asbestos-Containing Materials (ACM),
- Radon,
- Lead-based paint (LBP),
- Biological agents,
- Mold,
- Laboratory analytical testing of soils or groundwater,
- Wetlands investigation/delineation,
- Coal mine subsidence or uranium mine/mill investigation,
- Electromagnetic radiation investigation,
- Cultural and historic resources investigation/identification,
- Industrial hygiene and health and safety,

**Proposal for Phase I ESA  
Proposal Number 0908-1182**

- Air and water quality,
- Vapor Intrusion,
- Regulatory compliance,
- Investigation of adjacent property liabilities,
- Controlled substances,
- Detailed observations of any on-site structures not reasonably accessible,
- Endangered species Investigation, and
- Title search and review.

**Fees**

Based on the proposed scope of work outlined above, we estimate a lump sum fee of **\$2,300** to complete the Phase I ESA. In the event that other additional services are required beyond the scope of work outlined above, we propose that the fees for additional services be based on our hourly and unit costs presented on the attached Fee Schedule. As times for meetings or post-report consultation are difficult to predict, we propose that fees for such meetings also be based on the hourly rates shown on our Fee Schedule. GROUND will not proceed with any additional services out of scope activities without your prior approval and authorization.

In the event that access to the Property or obtainment/review of Property-related information is unreasonably difficult, or should this study be postponed or terminated for any reason after notice to proceed has been provided, cost incurred will be charged in accordance with our hourly and unit rates as indicated on the attached Engineering Fee Schedule.

The proposed Phase I ESA will be prepared for the exclusive use by Parker Jordan Metro District. In the event that an additional party desires to rely upon its findings and conclusions, a reliance letter or similar correspondence may be able to be prepared for an additional fee. No guarantee as to whether reliance can be provided is offered through execution of this proposal nor completion of the scope of work presented herein.

Should the Client directly or indirectly require that the U.S. Small Business Administration's Reliance Letter or any other pre-determined form providing reliance by GROUND to a third party be completed by GROUND, we must be contacted prior to execution of this proposal. Completion or signature of any type of correspondence not originated by GROUND is not guaranteed. Requests for third-party reliance after proposal execution will not be considered.

Please note the attached General Conditions, which contain a limitation of GROUND's liability. This limitation of liability cannot be altered at a later date.

**Schedule**

GROUND will initiate the assessment upon receipt of your written authorization to proceed. The records search is anticipated to require 3 to 5 days and the records evaluation, interviews, site reconnaissance, and report preparation will require approximately 3 weeks after the receipt of the records search. GROUND will attempt to

adhere to this timeframe although this schedule largely remains dependent upon favorable weather conditions, site access, current workload, and the accessibility of readily available information from public and private sources. In any event, we will notify you of our progress and salient information, as it becomes available.

### **Closure**

We require the following Client-provided information, which is essential in completing the assessment. *Given that the burden of potential CERCLA liability ultimately falls upon the Property owner or operator, a prospective landowner's decision not to provide the results of a previously conducted inquiry, study, or related/requested information to an environmental professional he or she hired to undertake other aspects of the all appropriate inquiries investigation can only affect the liability of the Property owner.* Additionally, failure to provide the requested information may be considered a Data Gap. Without receipt of this information, timely report preparation will be greatly impaired and may result in additional fees.

- (1) Current Property/parcel address;
- (2) Current legal description of the subject Property and an accurate site plan/location map of the Property. An ALTA/ACSM survey or equivalent is desired;
- (3) Names of individuals who may be contacted, such as past and present Property owners, operators, and occupants, real estate agents, financial institution representatives for information relevant to current and past uses of the Property.
- (4) Any and all recorded land title records applicable to the subject Property;
- (5) Copies of any previous environmental study(s) and/or information regarding the Property or adjoining properties,
- (6) Registrations or information regarding on-site/off-site underground and/or aboveground storage tanks;
- (7) Any correspondence relating to past or current violations of environmental laws with respect to the Property;
- (8) Access to the Interiors and exteriors of any and all on-site structures. Without reasonable access to on-site buildings, detailed observations cannot be completed and will be considered as part of GROUND's Out-of-Scope Activities as described above.

*By signing this proposal, the Client has acknowledged the above information request and will provide any and all applicable and available information within 7 days of Notice to Proceed. Should the findings of the Phase I ESA warrant further site investigations such as soil and groundwater sampling, such work typically is conducted as part of a Phase II ESA or Limited Environmental Sampling Program (LESP). GROUND can perform this work if authorized to do so, for an additional fee. In this event, a detailed scope of work and fee estimate can be provided.*

Proposal for Phase I ESA  
Proposal Number 0908-1182

If you have any questions, concerns or comments regarding this proposal, please contact this office. If this proposal meets your approval, please sign two copies and return both to this office. We will execute them both and return one to you.

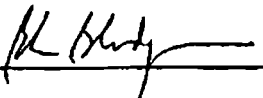
We appreciate your consideration of GROUND for this assignment.

Sincerely,  
GROUND Engineering Consultants, Inc.

Jessica Rinehart

Agreed to this 5 day of August, 2009.

Parker Jordan Metro District

by: 

Bob Blodgett

Please Print Name

GROUND Engineering Consultants, Inc. by:



Jessica Rinehart

Please Print Name

BY SIGNING THIS PROPOSAL, THE CLIENT HAS AGREED TO COMPLETE THE ATTACHED QUESTIONNAIRE AND PROVIDE ANY AND ALL APPLICABLE AND AVAILABLE INFORMATION REQUESTED BY IT AND THE AFOREMENTIONED LIST WITHIN 7 DAYS OF WRITTEN NOTICE TO PROCEED.

## **PHASE I ENVIRONMENTAL SITE ASSESSMENT USER QUESTIONNAIRE**

**IN ORDER TO QUALIFY FOR PROTECTION FROM POTENTIAL LIABILITY UNDER CERCLA AS AN INNOCENT LANDOWNER, A CONTIGUOUS PROPERTY OWNER, OR A BONA FIDE PROSPECTIVE PURCHASER, THE CLIENT *MUST* PROVIDE THE FOLLOWING INFORMATION, IF AVAILABLE. FAILURE TO PROVIDE THIS INFORMATION COULD RESULT IN A DETERMINATION THAT ALL APPROPRIATE INQUIRY REQUIREMENTS HAVE NOT BEEN MET.**

1. What do you know about the past uses of the Property?
2. Do you have any specialized knowledge regarding hazardous substances or contamination at or near the Property? If so, please elaborate.
3. To the best of your knowledge, have there been any hazardous materials, including but not limited to petroleum products, solvents, or degreasers used at any time at the Property? If yes, what type?
4. To the best of your knowledge, have any hazardous materials ever been disposed of/dumped at the Property? If yes, what type?
5. If applicable, briefly describe the potable water source(s) for the Property (municipal tap, wells, etc.).
6. If applicable, briefly describe any on-site sewage disposal systems or components and their approximate age(s).



7. If applicable, briefly describe any on-site heating and/or cooling systems or components and their associated fuel source(s).
  
8. Are you aware of any previous environmental studies regarding the Property and/or nearby properties? If so, please provide.
  
9. Are you aware of any environmental cleanup liens against the Property that are filed or recorded under federal, tribal, state, or local law? If so, please provide documentation
  
10. Are you aware of any engineering controls, land use restrictions, or Institutional controls that are in place at the Property or have been filed or recorded in a registry under federal, tribal, state, or local law?
  
11. Does the purchase price being paid for this Property reasonably reflect the fair market value of the Property? If no, have you considered whether the lower purchase price is due to potential contamination?
  
12. For what reason is this Phase I ESA required, and what type of property transaction is being carried out?

The above information has been completed/provided as accurately as possible and to the best of my knowledge.

\_\_\_\_\_

Please sign name Date

Printed Name and Title: \_\_\_\_\_

# GROUND ENGINEERING CONSULTANTS, INC.

## FEE SCHEDULE – ENGINEERING (2009)

### FIELD INVESTIGATION (Geotechnical and Environmental)

<b>Drill Rig - Truck Mounted with 2 Man Crew</b>	
4-Inch and 6-Inch Solid Auger . . . . .	\$110-\$130 per hour
Hollow Stem Auger 3 3/4" . . . . .	\$120-\$160 per hour
Coring . . . . .	Bit Wear + \$175 per hour
Standby Time . . . . .	\$100 per hour
Track Mounted Rig (Additional) . . . . .	\$50 per hour
<b>Drill Rig Mobilization and Demobilization</b>	
In Town under 50 miles . . . . .	Hourly Rate
Truck Mounted Rig . . . . .	\$1 10 per mile + \$30 per man per hour
Track Mounted Rig . . . . .	\$2.35 per mile
Water Truck . . . . .	\$0 80 per mile + \$30 per man per hour
Pick up . . . . .	\$0 60 per mile
Falling Weight Deflectometer . . . . .	\$275 per hour

<b>Drill Rig Support Vehicles</b>	
Water Truck . . . . .	\$110 per day
Support Truck . . . . .	\$80 per day
<b>Environmental Drilling</b>	
<b>Personal Protection Equipment</b>	
Level D . . . . .	\$40 per man per day
Level C . . . . .	\$75 per man per day
Steam Cleaner . . . . .	\$75 per day
Equipment Rental . . . . .	Cost + 20%
Well Construction Materials/Analytical Lab . . . . .	Cost + 20%
Dnll Crew Overtime . . . . .	\$20 per hour
Geophysical Survey . . . . .	\$85 per hour
Field Engineer/Enviro. Tech . . . . .	\$45-\$75 per hour
PID . . . . .	\$100 per day
pH/Temp Meter . . . . .	\$35 per day

### LABORATORY TESTING

Natural Density and Moisture Content . . . . .	\$10 00
Atterberg Limit (ASTM D-4318) . . . . .	\$40 00
Specific Gravity . . . . .	\$45 00
<b>Gradation Analysis (ASTM D-422)</b>	
a. All Standard Sieve to #200 Sieve . . . . .	\$50 00
b. Percent Less Than #200 Sieve . . . . .	\$30 00
c. Hydrometer Analysis, add . . . . .	\$50 00
<b>Swell-Consolidation</b>	
a. Loaded to 10,000 psf . . . . .	\$40 00
b. Per load in Addition to 10,000 psf . . . . .	\$5 00
Time-Consolidation (ASTM D-2435) . . . . .	\$300 00
Unconfined Compressive Strength (ASTM D-2166) . . . . .	\$35 00
<b>Direct Shear, per point</b>	
a. Unconsolidated-Undrained (Quick Test) . . . . .	\$100.00
b. Consolidated-Undrained . . . . .	\$115 00
c. Consolidated-Drained (ASTM D-3080) . . . . .	\$275 00
Standard Proctor Compaction (ASTM D-698) . . . . .	\$80 00
Modified Proctor Compaction (ASTM D-1557) . . . . .	\$90 00
Laboratory Technician . . . . .	\$40 00 - \$80 00 per hour
Soil Suction . . . . .	\$50 00

"R"-Value (ASTM 2844) . . . . .	\$250 00
Resistivity . . . . .	\$25 00
Freeze-Thaw Test (ASTM 560) . . . . .	\$325 00
Soil-Stabilization Mixture Analysis . . . . .	Quote
<b>Triaxial Shear, per point</b>	
a. Unconsolidated-Undrained (Quick Test) . . . . .	\$175.00
b. Consolidated-Undrained (R-Test) . . . . .	\$325.00
c. Consolidated-Drained (S-Test) . . . . .	\$550 00
<b>Permeability</b>	
a. Falling or Constant Head, 2-4" Diameter . . . . .	\$175 00
b. Tnaxial Permeability . . . . .	\$300.00
c. Remolded (W & PR E-13) . . . . .	\$200 00
Relative Density (ASTM D-2049) . . . . .	\$175 00
California Bearing Ratio (ASTM D-1883), 1-Point . . . . .	\$100 00
California Bearing Ratio (ASTM D-1883), 3-Point . . . . .	\$275 00
Water Soluble Sulfate . . . . .	\$40 00
pH Test . . . . .	\$30 00
Organic Content (ASTM D-2974) . . . . .	\$30 00
Los Angeles Abrasion Test . . . . .	\$125 00
Resilient Modulus \$275 00 per point + lab prep at \$50/hour	
Corrosivity . . . . .	\$85 00

### ENGINEERING

*(Covers planning and general supervision, field trips, analysis, consultation, preparation of reports, and travel time )*

Principal Engineer . . . . .	\$100 00-\$150 00 per hour
Project Manager . . . . .	\$85 00-\$105 00 per hour
Project Engineer or Geologist . . . . .	\$85 00-\$85 00 per hour
Staff Engineer . . . . .	\$55 00-\$85 00 per hour
CAD Technician . . . . .	\$50 00 per hour
Special Consultation, Expert Testimony and Court Appearance . . . . .	Negotiable Daily Rate

### MISCELLANEOUS

Auto or Pickup Mileage (Outside Service Area) . . . . .	\$0 60 per mile
Out-of-town living expenses, commercial travel costs, equipment rental, etc . . . . .	Cost +20%
Interest charged after 30 days from invoice date . . . . .	1 5% per month
Outside Laboratory Services . . . . .	Cost +20%

## GENERAL CONDITIONS

**INVOICES:** Consultant will submit progress invoices to Client monthly and a final bill upon completion of the services. Invoices will show charges for different personnel and expense classifications. Each invoice is due on presentation and is past-due thirty (30) days from invoice date. Client agrees to pay a finance charge of one and one-half percent (1.5%) per month, or the maximum rate allowed by law, on past-due accounts. Should Consultant bring suit to recover past due payment for services rendered to Client, Consultant shall be entitled to recover all costs of collection, including reasonable attorneys' fees.

**SAMPLES:** All samples of soil and rock will be discarded thirty (30) days after report submittal. Upon Client's request and authorization, samples will be delivered in accordance with Client's instructions, or stored for an agreed charge.

**RIGHT-OF-ENTRY:** Unless otherwise agreed, Client will furnish right-of-entry for Consultant and Consultant's Subconsultants/Subcontractors to make borings, surveys and/or conduct other surface or subsurface explorations. Consultant and its Subconsultants/Subcontractors will take reasonable precautions to reduce damage to property. However, cost of restoration or damage that may result from field operations is not included in the fee unless otherwise stated.

**UTILITIES:** Consultant will not be liable for damage to utility lines, piping, or other subterranean structures (pipes, tanks, irrigation lines, telephone wires, etc.) if the locations are not shown on the site plans furnished to us.

**REPORTS:** Reports, plans and other work prepared by Consultant remain the property of Consultant until all fees for Consultant's services have been paid. Client agrees that all reports and other work furnished to the Client and his agents not paid for will be returned upon demand, and will not be used for licensing, permits, design and/or construction. Upon payment, records will be retained by Consultant for 3 years, after which availability cannot be guaranteed.

**USE OF ELECTRONIC OR OTHER SUPPLIED DATA:** Electronic documents, site plans, or other information provided to Consultant for the subject project may be used in compiling geotechnical, environmental, or construction-related reports for the subject project. It is the responsibility of the owner or supplier of such documents to ensure that our use does not violate any copyright or confidentiality that may be pertinent to the supplied information.

**LIMITATION OF LIABILITY:** Consultant agrees in connection with services performed under this Agreement that such services are performed with the care and skill ordinarily exercised by members of the profession practicing under similar conditions at the same time and in the same or a similar locality. No warranty, expressed or implied, is made or intended by rendition of consulting services or by furnishing oral or written reports of the findings made. Liability of Consultant or Subconsultant(s) for damages due to or arising from professional negligence, breach of contract, or any cause of action, shall be limited to the Consultant's fee.

Any exploration, testing, specific observations and analysis associated with the work will be performed by Consultant solely to fulfill the purpose of this Service Agreement and Consultant is not responsible for interpretation by others of the information developed. Client recognizes that subsurface conditions beneath the project site may vary from those encountered in borings, surveys of explorations and that information and recommendations developed by Consultant are based solely on the information available to him at the time and location of such exploration. Furthermore, the information provided by the client in connection with the scope of services provided may not and should not be construed as being sufficient for use by others for the purposes of providing cost estimates for portions of this project.

**CORPORATE PROTECTION:** It must be agreed to by all parties affiliated with this agreement that the services provided by the Consultant that are in any way connected to this project shall not connect Consultant's employees, owners, directors, or officers to any personal exposure for risks associated with any portion of this project. Therefore, and notwithstanding anything to the contrary that may be contained herein or in any other document related to this project, the Client, future owners, future users, and/or any other trade or professional, agrees that as the sole and exclusive remedy for any claim, demand, or suit shall be directed and/or asserted against the Consultant, a Colorado Corporation, and not against any of Consultant's employees, owners, officers, or director.

## PHASE I ENVIRONMENTAL SITE ASSESSMENT USER QUESTIONNAIRE

IN ORDER TO QUALIFY FOR PROTECTION FROM POTENTIAL LIABILITY UNDER CERCLA AS AN INNOCENT LANDOWNER, A CONTIGUOUS PROPERTY OWNER, OR A BONA FIDE PROSPECTIVE PURCHASER, THE CLIENT MUST PROVIDE THE FOLLOWING INFORMATION, IF AVAILABLE. FAILURE TO PROVIDE THIS INFORMATION COULD RESULT IN A DETERMINATION THAT ALL APPROPRIATE INQUIRY REQUIREMENTS HAVE NOT BEEN MET.

1. What do you know about the past uses of the Property?

*The property has been used for agricultural and recreational purposes, which includes livestock grazing and motorized and non-motorized recreation.*

2. Do you have any specialized knowledge regarding hazardous substances or contamination at or near the Property? If so, please elaborate.

*To the best of our knowledge, there have been no hazardous substances in the vicinity of the property, with the exception of #6 below.*

3. To the best of your knowledge, have there been any hazardous materials, including but not limited to petroleum products, solvents, or degreasers used at any time at the Property? If yes, what type?

*The only petroleum products used on the property are those contained in motorized vehicles while in use on the property.*

4. To the best of your knowledge, have any hazardous materials ever been disposed of/dumped at the Property? If yes, what type?

*None*

5. If applicable, briefly describe the potable water source(s) for the Property (municipal tap, wells, etc.).

*None*

6. If applicable, briefly describe any on-site sewage disposal systems or components and their approximate age(s).

*A neighboring property, Tagan's, has a septic system of age unknown to us that at times has become overloaded and discharged onto our property.*

7. If applicable, briefly describe any on-site heating and/or cooling systems or components and their associated fuel source(s).

*None*

8. Are you aware of any previous environmental studies regarding the Property and/or nearby properties? If so, please provide.

*No*

9. Are you aware of any environmental cleanup liens against the Property that are filed or recorded under federal, tribal, state, or local law? If so, please provide documentation.

*No*

10. Are you aware of any engineering controls, land use restrictions, or institutional controls that are in place at the Property or have been filed or recorded in a registry under federal, tribal, state, or local law?

*The only land use restrictions are those commonly associated with floodplain/floodway designations, to the best of our knowledge*

11. Does the purchase price being paid for this Property reasonably reflect the fair market value of the Property? If no, have you considered whether the lower purchase price is due to potential contamination?

*Yes*

12. For what reason is this Phase I ESA required, and what type of property transaction is being carried out?

*property sale - ordered by the buyer for their purposes.*

The above information has been completed/provided as accurately as possible and to the best of my knowledge.

*A. S. Fellers*

Please sign name

*8/10/2009*

Date

Printed Name and Title: *A. S. Fellers*

# **FAX**

**From: Susie Fetters | Phone: 303-627-0292 | Fax: 303-627-0292**

**DATE:**

**8/6/2009**

**SUBJECT:**

**Environmental study**

**TO:**

**Dan Sheldon**

**PHONE:**

**FAX:**

**720-222-8642**

**CC:**

**PAGES:**

**3**

**COMMENTS:**

**Here are the questionnaire pages from the environmental study.**

**ADDENDUM A**  
**TO PROPOSAL FOR PHASE I ESA**  
**PROPOSAL NUMBER 0908-1182**

Ground Engineering Consultants, Inc. ("Consultant") and Parker Jordan Metropolitan District ("District") entered into Proposal Number 0908-1182, effective the \_\_\_ day of August, 2009, for a Phase I Environmental Site Assessment for the property southwest of the intersection of East Broncos Parkway and South Parker Road identified as parcel number 2073-32-1-00-021 ("Agreement"). The Consultant and District shall be individually referred to herein as a "Party" and collectively referred to herein as the "Parties." The Parties have agreed to enter into and incorporate this Addendum A as part of the Agreement.

1. **INDEPENDENT CONTRACTOR.** The Consultant is an independent contractor and nothing contained herein shall be construed as constituting any relationship with the District other than that of owner and independent contractor, nor shall it be construed as creating any relationship whatsoever between the District and the Consultant's employees. Neither the Consultant nor any of its employees are or shall be deemed employees of the District. The Consultant is not, and shall not act as, the agent of the District. The Consultant has no authority to hire or contract on behalf of the District and shall not make any representation to the contrary. The employees who assist the Consultant in the performance of the Services shall at all times be under the Consultant's exclusive direction and control and shall be employees of the Consultant and not employees of the District. The Consultant shall pay all wages, salaries and other amounts due its employees in connection with the performance of the Services and shall be responsible for all reports and obligations respecting such employees, including, without limitation, social security tax, income tax withholding, unemployment compensation, worker's compensation, employee benefits and similar matters. Further, the Consultant has sole authority and responsibility to employ, discharge and otherwise control its employees. The Consultant has sole authority and responsibility as principal for its agents, employees and all others it hires to perform or assist in performing the Services, if any. **The Consultant is not entitled to worker's compensation benefits and the Consultant is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

2. **SUBCONTRACTORS.** The Consultant is solely and fully responsible to the District for the performance of all work under this Agreement, whether performed by the Consultant or a subcontractor engaged by the Consultant. Use of any subcontractor by the Consultant shall be pre-approved in writing by the District. To obtain such approval, the Consultant shall submit the name of the subcontractor, together with resume(s) of training and experience in work of like character and magnitude as the work to be subcontracted, to the District. The Consultant agrees that each and every agreement of the Consultant with any subcontractor to perform work under this Agreement shall contain an indemnification provision identical to the one contained herein holding the District harmless for the negligent or tortious acts of the subcontractor. The Consultant further agrees that any such subcontract shall be terminable not-for-cause and that, unless directed otherwise by the District, the Consultant shall immediately terminate all such subcontracts immediately upon termination of this Agreement. Prior to commencing any of the work, a subcontractor shall provide evidence of insurance coverage to the District as provided in Paragraph 3. The Consultant further agrees that all such

subcontracts shall provide that they may be terminated immediately without further cost upon termination of this Agreement.

3. CONSULTANT'S INSURANCE.

A. The Consultant shall acquire and maintain throughout the entire term of this Agreement, including any extensions of the term, statutory workers' compensation insurance coverage, comprehensive general liability insurance coverage and automobile liability insurance coverage in the minimum amounts set forth in Exhibit A, attached hereto and incorporated herein by this reference. Any policy of insurance obtained to comply with this Paragraph shall provide that the District shall receive thirty (30) days' written notice prior to the policy's cancellation, non-renewal or modification to any provisions of such policy affecting the insurance coverage requirements under this Agreement. With the exception of automobile liability insurance, a waiver of subrogation and rights of recovery against the District, its directors, officers, employees and agents is required for each coverage provided. All coverages provided pursuant to this Paragraph shall be primary and any insurance maintained by the District shall be considered excess. The District shall have the right to verify or confirm, at any time, all coverages, information or representations contained herein.

B. Prior to commencing any work under this Agreement, the Consultant shall provide the District with a certificate or certificates evidencing the policies required by this Paragraph, as well as the amounts of coverage for the respective types of coverage. If the Consultant subcontracts any portion(s) of the work, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the District and the Consultant. If the coverage required under this Paragraph expires during the term of this Agreement, the Consultant or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

C. The Consultant's failure to purchase the required insurance shall not serve to release it from any obligations contained herein; nor shall the purchase of the required insurance serve to limit the Consultant's liability under any provision herein. The Consultant shall be responsible for the payment of any deductibles on issued policies.

4. INDEMNIFICATION. The Consultant shall indemnify, defend and hold harmless the District and its directors, officers, contractors, employees and agents from and against all liability, claims, suits, losses, damages, costs and demands, including reasonable attorney's fees and defense costs, arising from the tortious acts, criminal acts, negligent acts, willful misconduct, errors or omissions of the Consultant or its subconsultants in the performance of professional services under this Agreement. The Consultant is not obligated to indemnify the District for the District's own negligence. This indemnification obligation shall survive the expiration or termination of this Agreement.

Insurance coverage requirements specified herein shall in no way lessen or limit the liability of the Consultant under the terms of this indemnification obligation. The Consultant



shall obtain, at its own expense, any additional insurance that it deems necessary for the District's protection in the performance of this Agreement.

5. DISTRICT PAYMENTS ARE SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The Consultant expressly understands and agrees that the District's obligations hereunder shall extend only to monies appropriated for the purposes of this Agreement by the District and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the District, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the District or statutory debt limitation, including, without limitation, Article X, Section 20, or Article XI, Sections 1, 2 or 6 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of District funds, nor shall any provision of this Agreement restrict the future issuance of bonds or obligations payable from any class or source of District funds.

6. GOVERNMENTAL IMMUNITY. Nothing herein shall be construed as a waiver of the rights and privileges of the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended from time to time.

7. UNDOCUMENTED WORKERS.

A. Pursuant to the requirements of Section 8-17.5-102(1), C.R.S., the Consultant hereby certifies to the District that the Consultant shall not knowingly employ or contract with an illegal alien to perform work under the Agreement or enter into a contract with a sub-consultant that knowingly employs or contracts with an illegal alien to perform under the Agreement. The Consultant represents, warrants and agrees that it has participated or has attempted to participate in the E-Verify Program (as defined in Section 8-17.5-101(3.7), C.R.S., as amended) in order to confirm the employment eligibility of all employees of the Consultant who are newly hired for employment in the United States.

B. In accordance with Section 8-17.5-102(2)(a), C.R.S., the Consultant shall not:

- (1) Knowingly employ or contract with an illegal alien to perform work under the Agreement; or
- (2) Enter into a contract with a sub-consultant that fails to certify to the Consultant that the sub-consultant shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

C. The Consultant represents and warrants that it has verified or attempted to verify through participation in the E-Verify Program the employment eligibility of all of its employees who are newly hired for employment in the United States, and if the Consultant is not accepted into the E-Verify Program prior to entering into this Agreement the Consultant shall apply to participate in the E-Verify Program every three (3) months until the Consultant is

accepted or the Agreement has been completed, whichever occurs earlier. This provision shall be effective for so long as the E-Verify Program is in effect.

D. The Consultant shall not use E-Verify Program procedures to undertake pre-employment screening of job applicants while this Agreement is in effect.

E. If the Consultant obtains actual knowledge that a sub-consultant performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant shall:

- (1) Notify the sub-consultant and the District within three (3) days that the Consultant has actual knowledge that the sub-consultant is employing or contracting with an illegal alien; and
- (2) Terminate the sub-contract with the sub-consultant if, within three (3) days of receiving the notice required pursuant to sub-paragraph (a) above, the sub-consultant does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the sub-consultant if during such three (3) days the sub-consultant provides information to establish that the sub-consultant has not knowingly employed or contracted with an illegal alien.

F. The Consultant shall comply with any and all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment, pursuant to applicable law.

G. If the Consultant violates any provision of this Agreement or §§ 8-17.5-101, *et seq.*, C.R.S., the District may terminate the Agreement immediately and the Consultant shall be liable to the District for actual and consequential damages of the District resulting from such termination, and the District shall report such violation by the Consultant to the Colorado Secretary of State, as required by law.

8. AMENDMENT 54 COMPLIANCE. Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, Consultant shall contractually agree, for the duration of this Agreement and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the Consultant or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions.

Further, on or after December 31, 2008, and to the extent required by law, the Consultant shall comply with article XXVIII, Sections 15 through 17 of the Colorado Constitution (also known as Amendment 54) as they may apply to the Consultant. The language of applicable sections is as follows:

**Section 15:** Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, contract holders shall contractually agree, for the duration of the contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the contract holder or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions.

**Section 16:** To aid in enforcement of this measure concerning sole source contracts, the executive director of the department of personnel shall promptly publish and maintain a summary of each sole source government contract issued. Any contract holder of a sole source government contract shall promptly prepare and deliver to the executive director of the department of personnel a true and correct "Government Contract Summary," in digital format as prescribed by that office, which shall identify the names and addresses of the contract holders and all other parties to the government contract, briefly describe the nature of the contract and goods or services performed, disclose the start and end date of the contract, disclose the contract's estimated amount or rate of payment, disclose the sources of payment, and disclose other information as determined by the executive director of the department of personnel which is not in violation of federal law, trade secrets or intellectual property rights. The executive director of the department of personnel is hereby given authority to promulgate rules to facilitate this section.

**Section 17:** (1) Every sole source government contract by the state or any of its political subdivisions shall incorporate article XXVIII, section 15, into the contract. Any person who intentionally accepts contributions on behalf of a candidate committee, political committee, small donor committee, political party, or other entity, in violation of section 15 has engaged in corrupt misconduct and shall pay restitution to the general treasury of the contracting governmental entity to compensate the governmental entity for all costs and expenses associated with the breach, including costs and losses involved in securing a new contract if that becomes necessary. If a person responsible for the bookkeeping of an entity that has a sole source contract with a governmental entity, or if a person acting on behalf of the governmental entity, obtains knowledge of a contribution made or accepted in violation of section 15, and that person intentionally fails to notify the secretary of state or appropriate government officer about the violation in writing within ten business days of learning of such contribution, then that person may be contractually liable in an amount up to the above restitution.

(2) Any person who makes or causes to be made any contribution intended to promote or influence the result of an election on a ballot issue shall not be qualified to enter into a sole source government contract relating to that particular ballot issue.

(3) The parties shall agree that if a contract holder intentionally violates section 15 or section 17 (2), as contractual damages that contract holder shall be ineligible to hold any sole source government contract, or public employment with the state or any of its political subdivisions, for three years. The governor may temporarily suspend any remedy under this section during a declared state of emergency.

(4) Knowing violation of section 15 or section 17 (2) by an elected or appointed official is grounds for removal from office and disqualification to hold any office of honor, trust or profit in the state, and shall constitute misconduct or malfeasance.

(5) A registered voter of the state may enforce section 15 or section 17 (2) by filing a complaint for injunctive or declaratory relief or for civil damages and remedies, if appropriate, in the district court.

Definitions regarding article XXVIII can be found in Section 2, including:

(4.5) "Contract holder" means any non-governmental party to a sole source government contract, including persons that control ten percent or more shares or interest in that party; or that party's officers, directors or trustees; or, in the case of collective bargaining agreements, the labor organization and any political committees created or controlled by the labor organization;

(8.5) "Immediate family member" means any spouse, child, spouse's child, son-in-law, daughter-in-law, parent, sibling, grandparent, grandchild, stepbrother, stepsister, stepparent, parent-in-law, brother-in-law, sister-in-law, aunt, niece, nephew, guardian, or domestic partner;

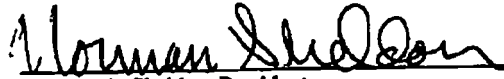
(14.4) "Sole source government contract" means any government contract that does not use a public and competitive bidding process soliciting at least three bids prior to awarding the contract. This provision applies only to government contracts awarded by the state or any of its political subdivisions for amounts greater than one hundred thousand dollars indexed for inflation per the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley after the year 2012, adjusted every four years, beginning January 1, 2012, to the nearest lowest twenty five dollars. This amount is cumulative and includes all sole source government contracts with any and all governmental entities involving the contract holder during a calendar year. A sole source government contract includes collective bargaining agreements with a labor organization representing employees, but not employment contracts with individual employees. Collective bargaining agreements qualify as sole source government contracts if the contract confers an exclusive representative status to bind all employees to accept the terms and conditions of the contract;

(14.6) "State or any of its political subdivisions" means the state of Colorado and its agencies or departments, as well as the political subdivisions within this state including counties, municipalities, school districts, special districts, and any public or quasi-public body that receives a majority of its funding from the taxpayers of the state of Colorado.


*[Remainder of page intentionally left blank].*

IN WITNESS WHEREOF, the Parties have caused this Addendum A to be duly executed and delivered by their respective officers thereunto duly authorized and effective as of the \_\_\_ day of August, 2009.

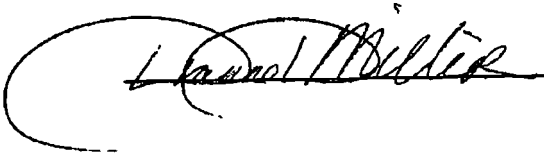
PARKER JORDAN METROPOLITAN DISTRICT

  
Norman A. Sheldon, President

ATTEST:

  
Don Leyn, Secretary

APPROVED AS TO FORM  
MILLER ROSENBLUTH, LLC  
General Counsel to the District

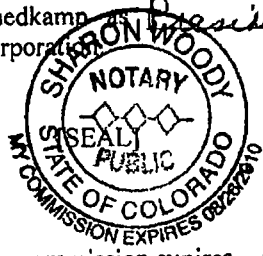


GROUND ENGINEERING CONSULTANTS,  
INC , a Colorado corporation

Andrew Seitz  
By: Andrew J. Suedkamp  
Its: President

STATE OF COLORADO                    )  
  ) ss  
COUNTY OF Aspen                    )

Subscribed and sworn to before me on this 10<sup>th</sup> day of August 2009, by Andrew J. Suedkamp President of Ground Engineering Consultants, Inc., a Colorado corporation.



Sherron Woody  
Notary Public

My commission expires 08/26/10

**EXHIBIT A**  
**Insurance Requirements**

1. Workers' Compensation Insurance in accordance with applicable law, including employers' liability.
2. Commercial general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$1,000,000.00 general aggregate. Coverage shall include all major divisions of coverage and be on a comprehensive basis including:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. blanket contractual;
  - d. broad form property damages, including completed operations;
  - e. medical payments;
  - f. products and completed operations;
  - g. independent Contractors coverage;
  - h. coverage inclusive of construction means, methods, techniques, sequences, and procedures, employed in the capacity of a construction Contractor; and
  - i. care, custody and control coverage.
3. Commercial automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident covering any auto.
4. All coverages specified above, with the exception of commercial automobile liability insurance, shall waive any right of subrogation against the District and its directors, officers and employees. The policies shall state: "Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation, provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder."