

CONTRACT REGARDING "On-Call"
CONSULTANT SERVICES

Contract No. _____

THIS CONTRACT, made effective January 1, 2027, by and between SOUTHEAST METRO STORMWATER AUTHORITY acting by and through SEMSWA WATER ACTIVITY ENTERPRISE (hereinafter called "SEMSWA") and _____ (hereinafter called "CONSULTANT") and collectively known as PARTIES.

WITNESSETH:

WHEREAS, SEMSWA's Board of Directors has authorized expenditures for On-Call services for the calendar year 2027; and

WHEREAS, SEMSWA has deemed it necessary to select a consultant to provide SEMSWA with consultation services within SEMSWA boundaries (hereinafter called "PROJECT"); and

WHEREAS, SEMSWA's Board of Directors has authorized the Executive Director to contract for those services.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES agree as follows:

1. EMPLOYMENT OF CONSULTANT
SEMSWA shall engage CONSULTANT and CONSULTANT hereby agrees to perform the services hereinafter set forth.
2. PROJECT LIMITS
CONSULTANT shall perform and/or supply all necessary services as specified in this Contract within the boundaries of SEMSWA or as otherwise directed in writing by SEMSWA.
3. SCOPE OF SERVICES
At SEMSWA's request, CONSULTANT shall provide a detailed Scope of Services.
4. BASIS OF PAYMENT
SEMSWA agrees to compensate CONSULTANT for consulting services authorized by SEMSWA in writing and performed on an actual hourly and materials basis in accordance with the General Schedule of Rates, to be provided separately. The General Schedule of Rates shall be binding until December 31, 2027.
Total cost for the work that may be authorized hereunder shall not exceed \$100,000 without prior approval of the SEMSWA Board of Directors.
5. METHOD OF PAYMENT
SEMSWA shall make payment for services accepted and completed in the preceding pay period based on the submittal of an invoice from

CONSULTANT referencing each amendment(s) issued under this Contract. CONSULTANT shall keep work and cost records that shall permit easy comparison with work performed as specified in each invoice. If invoices are received by the 25th of the month, payment shall be by the 25th of the following month.

6. PERSONNEL

- A. All of the services required hereunder, except where specified, shall be performed by CONSULTANT's personnel and all personnel engaged in the services shall be fully qualified and shall be authorized under applicable state or local law to perform such services.
- B. None of the services covered by this Contract, except where specified, shall be subcontracted without the prior written approval of SEMSWA.

7. DIRECTION OF EFFORT AND COORDINATION

Notwithstanding any of the provisions of this Contract, the Executive Director of SEMSWA shall be the only individual authorized to redirect the effort or in any way amend or modify the terms of this Contract. SEMSWA may appoint a Project Manager who shall represent the Executive Director in matters related to PROJECT. All such redirection shall be transmitted in writing and directed to CONSULTANT's Project Manager and shall be subject to the provisions of Paragraph 11.

8. OWNERSHIP OF DATA

Ownership, in paper and electronic form, of all data; maps; drawings; details, documents; special software; spreadsheets and templates; photographs; and information collected, acquired, developed, and documented under this Contract (hereinafter called "DATA") shall be vested with SEMSWA, except for any intellectual property rights owned or created by CONSULTANT prior to the execution of this Contract; and/or created outside the scope of work of this Contract. CONSULTANT may retain a record copy of such DATA. Should SEMSWA see fit to make use of DATA assembled under this Contract for use not included under the scope of this Contract, SEMSWA shall assume all liability for such use and CONSULTANT shall not make claims of liability against SEMSWA for such use.

9. DURATION OF CONTRACT

The duration of this Contract shall be from the date of execution of this Contract through December 31, 2027, unless changed by amendment(s) to this Contract.

10. TERMINATION OF CONTRACT

This Contract may be terminated by SEMSWA and/or CONSULTANT upon seven (7) days written notice. In the event of termination, CONSULTANT shall be paid for services satisfactorily performed to the termination date as determined by SEMSWA. This payment shall be full satisfaction of all obligations to CONSULTANT under this Contract.

All DATA shall be surrendered to SEMSWA by CONSULTANT before payment is made.

11. CHANGES IN CONTRACT

SEMSWA may request changes in the scope of services of CONSULTANT. Such changes, including any increase or decrease in the amount of CONSULTANT's compensation and/or time of performance, which are mutually agreed upon by and among PARTIES shall be incorporated in written amendments to this Contract. Total cost for consultant services that may be authorized hereunder shall not exceed \$100,000 without prior approval of the SEMSWA Board of Directors.

12. INSURANCE

During the performance of the work defined by this Contract, CONSULTANT, acting as an independent contractor, shall be solely responsible for procuring and keeping in full force and effect the insurance listed below:

<u>Insurance</u>	<u>Minimum Limits</u>
A. Commercial General Liability	\$1,000,000 each occurrence and in the aggregate in combined single limit coverage for bodily injury and property damage (Services authorized hereunder equaling or exceeding \$100,000 shall require a minimum of \$2,000,000 insurance limit)
B. Professional Liability	\$1,000,000 each claim and in the aggregate (Services authorized hereunder equaling or exceeding \$100,000 shall require a minimum of \$2,000,000 insurance limit)
C. Automobile Liability	\$1,000,000 each occurrence in combined single limit coverage for bodily injury and property damage
D. Workers' Compensation	
1. Workers' Compensation	statutory limits required by law
2. Employer's Liability	statutory limits required by law

The limits of coverage listed above are as required by SEMSWA. CONSULTANT shall evaluate individual needs regarding higher levels of insurance.

Except for Professional Liability insurance, each type of insurance procured by CONSULTANT shall provide coverage for all claims arising out of, or in connection with, any operations, work, or services performed under this Contract by CONSULTANT, CONSULTANT's employees, subconsultants, subcontractors, agents, or representatives. CONSULTANT's Professional Liability insurance shall provide coverage for claims arising out of the negligent acts, errors and omissions of CONSULTANT in the performance of services under this Contract. CONSULTANT may elect not to provide the above-specified coverage for its subconsultants or subcontractors. In that event, CONSULTANT shall require that its subconsultants or subcontractors procure and maintain the same insurance coverage as set forth above.

SEMSWA shall be listed as an "additionally insured" on all commercial liability insurance policy/certificates and all automobile liability insurance policy/certificates.

To the fullest extent permitted by law, the CONSULTANT hereby waives its rights and its insurer(s)' rights of recovery against SEMSWA under all the required insurance for any loss arising from or relating to this Contract. The CONSULTANT shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to affect such waiver.

The additional insured commercial general liability insurance shall apply on a primary and non-contributory basis.

The commercial general liability insurance shall be on an occurrence basis, and the professional liability insurance shall be on a claims-made basis. The professional liability insurance shall remain in full force and effect for one year following the final acceptance of each PROJECT.

Certificates of Insurance showing CONSULTANT is carrying the above-described insurance shall be provided to SEMSWA at the time of execution of this Contract. As necessary, Certificates of Insurance showing its subconsultants and subcontractors are carrying the above described insurance shall be provided to SEMSWA prior to the beginning of any work by its subconsultant or subcontractor pertaining to this Contract. Subconsultant shall not begin any work unless and until that subconsultant provides proof of the above-described insurance to SEMSWA. If CONSULTANT permits subconsultant to begin any work without the insurance coverage required above, the CONSULTANT shall be liable for any and all negligent acts of subconsultant. All Certificates of Insurance shall include language stating that, should the insurance policy be canceled before its expiration date, the insurance company shall provide thirty (30) days written notice to SEMSWA except for ten (10) days' notice for cancellation due to non-payment of premium. The costs of insurance shall be considered a part of the overhead costs of CONSULTANT.

If possible, CONSULTANT shall procure one Certificate of Insurance valid through December 31, 2027, and shall request the insertion of the following language in the COI:

"Any and all projects of SEMSWA. Certificate Holder, the owner of the property upon which the project is located, the project owner's representative, easement holder on the property of the project, permittee involved in the project, special districts involved in the project and any other individual or entity that SEMSWA may be legally responsible to regarding the project and others as shown on the project executed agreement are included as addition insureds if required by written contract with respect to General Liability, Automobile Liability, and Umbrella Liability per the terms and conditions of the policy."

13. INDEMNIFICATION

CONSULTANT agrees to indemnify, defend, and hold harmless SEMSWA, its employees, directors, and officers from any and all damages and liabilities arising from the degree or percentage of negligence or fault attributable to the CONSULTANT, its agents, representatives, subcontractors, or suppliers. If the CONSULTANT is providing architectural, engineering, surveying, or other design services, the extent of the CONSULTANT's obligation to defend, indemnify, or hold harmless may be determined only after the CONSULTANT's liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between SEMSWA and CONSULTANT. As part of this obligation, the CONSULTANT shall compensate SEMSWA for the time, if any, spent by its legal counsel in connection with such claims or actions.

14. ASSIGNABILITY

This Contract is for the expert professional services by the personnel of CONSULTANT, and is not assignable, save and except with the consent of SEMSWA, who may withhold consent at its option with or without cause.

15. APPLICABLE LAWS

This Contract shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any and all legal actions regarding the transaction covered herein shall lie in District Court in and for the County of Arapahoe, State of Colorado.

16. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Contract, CONSULTANT agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified on the basis of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agrees to insert the foregoing provision in all subcontracts hereunder. CONSULTANT shall provide a list of subcontractors and which of those subcontractors are Disadvantaged Business Enterprises (DBE) and the basis for determining or defining the subcontractor as a DBE. The list shall be submitted prior to final payment.

17. STANDARD OF CARE

CONSULTANT shall perform the services in a manner consistent with the standard of care normally employed in metropolitan Denver, Colorado, by professional engineers or consultants performing the same or similar services at the time such services are performed.

18. PROHIBITION ON USE OF ARTIFICIAL INTELLIGENCE TOOLS

The CONSULTANT shall not use any artificial intelligence ("AI") tool, including but not limited to generative AI systems, large language models, AI-assisted coding tools, AI chatbots, AI code completion tools, or similar technologies, in connection with the performance of services under this Agreement

without the SEMSWA's prior written authorization.

Without limiting the foregoing, the CONSULTANT shall not:

1. Input, upload, or disclose any SEMSWA Confidential Information, source code, technical specifications, customer information, proprietary data, or other non-public information into any AI tool.
2. Use AI tools to generate, modify, review, test, document, or otherwise assist in the development of software, infrastructure, documentation, or other work product for the SEMSWA.
3. Incorporate into the SEMSWA's work product any output generated by an AI tool, whether in whole or in part.

Any exception to this prohibition must be approved in advance in writing by an authorized representative of the SEMSWA and may be subject to additional security, confidentiality, intellectual property, and compliance requirements.

The CONSULTANT represents and warrants that all work product delivered under this Agreement complies with this provision. Upon the SEMSWA's request, the Engineer shall certify compliance and provide reasonable information demonstrating that prohibited AI tools were not used in the performance of the services.

A violation of this provision shall constitute a material breach of this Agreement and may result in immediate termination of this Agreement, in addition to any other rights or remedies available to the SEMSWA.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first written above.

CONSULTANT: _____

BY: _____

TITLE: _____

DATE: _____

SOUTHEAST METRO STORMWATER AUTHORITY
acting by and through
SEMSWA WATER ACTIVITY ENTERPRISE

BY: _____

TITLE: Executive Director

DATE: _____