CONTRACT SERVICES AGREEMENT

THIS CONTRACT SERVICES AGREEMENT ("Agreement") is made this 1st day of April, 2007, by and between City of Boulder ("Client"), and Underground Consulting Solutions, LLC., a Colorado company ("UCS").

RECITALS

WHEREAS, UCS proposes to provide utility locating services to Client within the State of Colorado; and

WHEREAS, Client desires to have UCS provide utility locating services within the State of Colorado.

AGREEMENT

NOW, THEREFORE, in consideration of the following covenants, terms and conditions the parties agree as follows:

1. **Services**: UCS will provide locating services for Client on a contract basis. These services shall include locating and marking of underground fiber optic cable lines and conduit with tracer wire throughout. UCS will receive locate ticket requests directly from UNCC and determine whether a locate request should be cleared to proceed or physically located and further providing that locating service. UCS will provide Emergency utility locating services for such emergency locate requests occurring outside of normal working hours and work days. UCS employees shall also provide such other services that are reasonably related to locating and identifying these utilities as requested by the Client. “Engineered Utility Locating” and “Watch and Protect” services are excluded from this agreement.

2. **UCS Obligation**: UCS agrees to provide underground utility locating and ticket clearing services for Clients’ owned and leased fiber optic cable and conduit with tracer wire throughout. UCS employees will provide services during normal working hours which shall be from 8:00 a.m. to 5:00 p.m., and Emergency On-Call services for all times outside of normal working hours and work days to provide round the clock coverage. “Work days” shall be defined as Monday through Friday, excluding nationally recognized holidays.

3. **Cost of Services**: UCS shall charge for underground utility locating at a rate of $16.00 per physically located ticket request *, and $4.00 per cleared locate ticket request, billed per calendar month. After hours emergency utility locating shall be charged at $42.00 per hour with a 2 hour minimum. * “1 Ticket” is defined as 1,000 linear feet. Any distance beyond will be charged an additional ticket price.

**Contractor's Assurance and Limitations**: UCS will work diligently and in good faith to provide the best locating services possible to Client. UCS shall perform its work in accordance with normal acceptable industry standards. UCS shall not be responsible for damage caused to any facilities located within or around the job site where UCS is not at fault. UCS will use any means available to locate Client utilities, known and unknown, and will not be liable for utility lines which are not on print and/or are unlocateable (i.e. no tracer wire, clay or asbestos composition).
Client acknowledges that UCS is merely providing experienced field operators to assist in reducing the likelihood of damage to underground facilities and that damage to underground facilities is an inherent risk associated with construction and excavation. In the event of damage caused by UCS locator, UCS shall reimburse up to $10,000, for actual cost of repair to Client, depending upon the extent of damage. The actual cost of repair shall not include any allocation of the Client’s overhead or other indirect costs. UCS attests that use of accurate utility prints provided by Client greatly reduces all inherent risks.

4. Status of Parties:

A. UCS shall be an independent contractor solely responsible for the safe manner in which its work is to be performed. UCS shall be solely responsible for the supervision, safety training & education, and compliance with all federal, state, and local statutes, rules, regulations and ordinances applicable to the UCS and UCS employees and their use in the performance of the work.

B. Client shall have no right or obligation with respect to Contractors performance of the work other than the right to inspect the work and to reject any portion of the work not in accordance with this Agreement.

C. Nothing contained in this Agreement shall constitute or deem the parties partners, joint venturers or the like. Client shall have no liability for the obligations of UCS, or the actions of UCS employees, incurred or performed by reason of this Agreement.

5. Insurance:

A. UCS shall pay, protect, defend and save harmless Client, its agents and employees, against all liability, claim, loss, cost, damage, and expense, including reasonable attorney’s fees, on account of injury or death to any person (including employees of the parties hereto) or damage to property, occurring in or arising out of the errors or omissions by UCS.

B. UCS shall provide: (i) Worker’s Compensation and Employer’s Liability insurance in accordance with the laws of the State of Colorado; (ii) Comprehensive General Liability insurance, including operations and products liability coverage, which insurance shall provide protection for personal injury, death, and property damage. The limits of liability shall be no less than $2,000,000.00 for personal injury or death and $1,000,000.00 for property damage, written on a per occurrence basis; and, (iii) Comprehensive Automobile insurance to cover owned, non-owned, hired and rented cars (bodily injury and property damage) with the same limits as (ii).

C. Certificates of insurance evidencing the foregoing coverages and Client coverage as additional insured shall be furnished to Client prior to the time UCS commences work and shall state that Client shall be given at least thirty (30) days written notice prior to any cancellation of the coverage indicated. In the event the contract is renewed by the parties pursuant to the provisions of section 9, UCS will provide Client with an updated certificate of insurance.

6. Payment: Client shall be billed per calendar month at a rate in accordance with Item #3: Cost of Services. All billing shall be due and payable within 30 calendar days of the billing date. Any outstanding balance shall be subject to an interest charge of 1.5% per month, compounded monthly. Failure to pay in a timely manner shall be grounds to terminate this Agreement.

7. Term of Contract: This Agreement shall be effective from the date listed above, and automatically renew on a yearly basis on the same date. Termination of this Agreement by either party entering into this Contract shall be effective by sixty (60) day written notification, or by the need to update/renew Agreement terms.
8. **Controlling Law**: This Agreement shall be governed by the laws of Colorado. Any suit between the parties arising under this agreement shall be brought only in a court of competent jurisdiction for the Twentieth Judicial District of the State of Colorado.

9. **Entire Agreement**: This Agreement contains the entire agreement between the parties and there are no other agreement or understandings between the parties as to the subject matter except as contained in the Agreement.

10. **Locating Services Agreement**: If the parties have previously or subsequently enter into a locating services agreement, this Agreement shall in no way alter the terms of the locating Services Agreement. The parties understand that this Agreement relates to a separate consulting service.

IN WITNESS WHEREOF, the Parties hereto have signed this Contract effective as of the day and year first written.

UNDERGROUND CONSULTING SOLUTIONS, LLC

By: [Signature]
Title: Kelly Golf, President

STATE OF COLORADO  
) ss.
COUNTY OF BOULDER  
)

The foregoing instrument was acknowledged before me, a notary public, this 13th day of March, 2007, by [Signature], as [President].

Witness my hand and official seal.

(SEAL)

Notary Public

CITY OF BOULDER

City Manager

ATTEST:

City Clerk on behalf of the Director of Finance and Record

APPROVED AS TO FORM:

City Attorney's Office

“Don’t dig without UCS”
CERTIFICATE OF LIABILITY INSURANCE

PRODUCER
Edwards, Church & Muse, Inc.
P. O. Box 12457
Charlotte NC 28220-2457
Phone: 704-529-4411 Fax: 704-529-4422

INSURED
American Utility Services, Inc
NextGen USA, Inc.
PO Box 459
Monroe NC 28111

INSURERS AFFORDING COVERAGE
INSURER A: Amerisure Mutual Ins. Co. 23396
INSURER B: Amerisure Insurance Co.
INSURER C: Cincinnati Insurance Company
INSURER D:
INSURER E:

COVERAGES

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

PART A
LTR INSURED TYPE OF INSURANCE POLICY NUMBER POLICY EFFECTIVE DATE (MM/DD/YYYY) POLICY EXPIRATION DATE (MM/DD/YYYY) LIMITS
A X GENERAL LIABILITY
   X COMMERCIAL GENERAL LIABILITY
      CLAIMS MADE X OCCUR
   X $10,000 ded
   X Property damage
   GENTL AGGREGATE LIMIT APPLIES PER POLICY X PROJ LOC
   CPP2018865 03/25/07 03/25/08 EACH OCCURRENCE
   $1,000,000
   DAMAGE TO RENTED PREMISES (Ea occurrence)
   $100,000
   MED EXP (Any one person)
   $5,000
   PERSONAL & ADV INJURY
   $1,000,000
   GENERAL AGGREGATE
   $2,000,000
   PRODUCTS - COM/PiOP AGG
   $2,000,000
   Emp Ben.
   $1,000,000

A X AUTOMOBILE LIABILITY
   X ANY AUTO
   ALL OWNED AUTOS
   SCHEDULED AUTOS
   HIRED AUTOS
   X NON-OWNED AUTOS
   X HIRED CAR Phy Dmg
   $75,000 LIMIT
   OTC $250 / COLL $500
   CA2018864 03/25/07 03/25/08 COMBINED SINGLE LIMIT
   (Ea accident)
   $1,000,000
   BODILY INJURY
   (Per person)
   
   BODILY INJURY
   (Per accident)
   
   PROPERTY DAMAGE
   (Per accident)
   
   AUTO ONLY - EA ACCIDENT
   $1,000,000
   OTHER THAN AUTO ONLY: ACC
   $1,000,000

C X EXCESS/UMBRELLA LIABILITY
   X OCCUR CLAIMS MADE
   DEDUCTIBLE
   X RETENTION $0
   XS4499757 03/25/07 03/25/08 EACH OCCURRENCE
   $5,000,000
   AGGREGATE
   $5,000,000
   
   $1,000,000
   
   $1,000,000

A X WORKERS COMPENSATION AND
   EMPLOYERS' LIABILITY
   ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?
   If yes, describe under SPECIAL PROVISIONS below
   WC2018863 03/25/07 03/25/08 E.L. EACH ACCIDENT
   $1,000,000
   E.L. DISEASE - EA EMPLOYEE
   $1,000,000
   E.L. DISEASE - POLICY LIMIT
   $1,000,000

OTHER
B Scheduled Equipmnt
   CPP2018865 03/25/07 03/25/08
   $500 ded
B Leased/Rented Equi
   CPP2018865 03/25/07 03/25/08
   $500 ded
   $50,000

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

The City of Boulder is Additional Insured for General Liability with respects to work performed by the insured on their behalf.

CERTIFICATE HOLDER

City of Boulder
Attn: Paul Williams
1101 Arapahoe Ave
Boulder CO 80302

CITBO-1

ACORD 25 (2001/08)

CANCELATION

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

AUTHORIZED REPRESENTATIVE
Bradford C. Cairns

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