

# Wilkinson Portables, Inc.

## FIRST AMENDMENT TO AGREEMENT FOR SERVICES #5586

**THIS FIRST AMENDMENT** to that Agreement for Services #5586 made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Wilkinson Portables, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 3005 Venture Road, Placerville, California 95667 (hereinafter referred to as "Contractor");

### RECITALS

**WHEREAS**, Contractor has been engaged by County to provide placement and service of portable toilets and sinks along with servicing of County-owned portable toilets on an on-call basis pursuant to Agreement for Services #5586, dated May 10, 2021, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

**WHEREAS**, the parties hereto desire to amend the Agreement to increase the not-to-exceed compensation amount of the Agreement by \$30,000, for a total not-to-exceed amount of \$75,000, amending **ARTICLE III, Compensation for Services**;

**WHEREAS**, the parties hereto desire to fully-replace **Article V, Changes to Agreement**, and the third recital of the Agreement, and add a new Article to include updated applicable FEMA (Federal Emergency Management Agency) contract provisions;

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Contractor mutually agree to amend the terms of the Agreement in this First Amendment to Agreement on the following terms and conditions:

I. The third recital of the Agreement is amended in its entirety to read as follows:

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable Federal law, regulations, executive orders, Federal Emergency Management Agency (FEMA) policies, procedures, and directives, as well as all applicable state and local laws;

II. **ARTICLE III, Compensation**, the third paragraph of the Article is amended in its entirety to read as follows:

The total amount of this Agreement, as amended, shall not exceed \$75,000, inclusive of all costs, taxes, and expenses.

- III. **ARTICLE V, Changes to Agreement**, of the Agreement is amended in its entirety to read as follows:

**ARTICLE V**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Amendments may be made to permit mutually acceptable changes in the scope, character, or complexity of the work if such changes become desirable or necessary as the work progresses and are determined to be reasonable for the completion of the project scope. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

- IV. **The following Article of the Agreement is added to read as follows:**

**ARTICLE XXXIV**

**FEMA Provisions:**

A. Debarment and Suspension Certification

1. Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Contractor or any person associated therewith in the capacity of owner, partner, director, officer, or manager:
  - i. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
  - ii. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
  - iii. Does not have a proposed debarment pending; and
  - iv. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
2. Any exceptions to this certification must be disclosed to County. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Contractor's responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
3. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

4. Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
5. This certification is a material representation of fact relied upon by County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
6. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

B. Access to Records

The following requirements apply to this Agreement:

1. The Contractor agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA Administrator or any of their authorized representatives access to construction or other work sites pertaining to the work being completed under this Agreement.
4. In compliance with the Disaster Recovery Act of 2018, County and Contractor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

C. Department of Homeland Security (DHS) Seal, Logo, and Flags

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

D. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgment that the County may receive FEMA financial assistance, or federal assistance or grants, state funds, and local agency or other grant funds for all or a portion of the funding for the services to be provided herein. As a requirement of County's use of federal, state, or local agency grant funds, County is required to comply with certain contracting requirements and to extend those requirements to all third party contracts. Contractor shall comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives as well as all applicable provisions of state and local agency regulations, policies, procedures, and directives.

Failure of Contractor to comply with any federal, state, or local agency provision may be the basis for withholding payments for charges made by Contractor and for such other remedies as may be appropriate including termination of this Agreement. Contractor shall further comply with any flow-down or third-party contracting provisions which may be required under the federal, state, or local agency regulations and which may apply to Contractor's subcontracts, if any, associated with this Agreement.

E. No Obligation by Federal Government

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from this Agreement.

F. Program Fraud and False or Fraudulent Statements or Related Acts

Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any, as well as the Contractor's actions pertaining to this Agreement.

Except as herein amended, all other parts and sections of Agreement for Services #5586, shall remain unchanged and in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amendment to Agreement for Services #5586 on the dates indicated below.

**-- COUNTY OF EL DORADO --**

By: *Laura Schwartz*  
Laura Schwartz (Nov 10, 2021 13:44 PST)

Dated: 11/10/2021

Purchasing Agent  
Chief Administrative Office  
"County"

**-- WILKINSON PORTABLES, INC. --**

By: *Chad Wilkinson*  
Chad Wilkinson (Nov 10, 2021 07:25 PST)

Dated: 11/10/2021

Chad Wilkinson  
Chief Executive Officer  
and Corporate Secretary  
"Contractor"