

CH2M Hill, Inc.

FIRST AMENDMENT TO AGREEMENT FOR SERVICES # AGMT 11-53293

THIS FIRST AMENDMENT to that Agreement for Services # AGMT 11-53293 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 CH2M Hill, Inc., a Florida corporation duly qualified to conduct business in the State of California, whose principal place of business is 9191 South Jamaica Street, Englewood, Colorado, 80112, and whose local office address is 2485 Natomas Park Drive, Suite 600, Sacramento, California 95833 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, Consultant has been engaged by County to provide structural engineering support and associated services for the Community Development Agency pursuant to Agreement for Services # AGMT 11-53293, dated March 20, 2012, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

WHEREAS, the parties hereto desire to amend the Agreement to update the milestone reviews paragraph, amending **ARTICLE I, Scope of Services**;

WHEREAS, the parties hereto desire to amend the Agreement to extend the expiration date of the Agreement, amending **ARTICLE II, Term**;

WHEREAS, the parties hereto desire to amend the Agreement to clarify the billing rates paragraph, to increase the not-to-exceed compensation amount of the Agreement by \$100,000.00, to add indirect cost audit review requirements, and to add certified payroll requirements, amending **ARTICLE III, Compensation for Services**;

WHEREAS, the parties hereto desire to amend the Agreement to update the prevailing wage requirements, amending **ARTICLE XIV, Prevailing Wage**;

WHEREAS, the parties hereto desire to amend the Agreement to update the notice recipients, amending **ARTICLE XVII, Notice to Parties**;

WHEREAS, the parties hereto desire to amend the Agreement to reflect current County insurance requirements, amending **ARTICLE XIX, Insurance**;

WHEREAS, the parties hereto desire to amend the Agreement to update the interest of consultant Article, amending **ARTICLE XXI, Interest of Consultant** and adding **Exhibit J**;

WHEREAS, the parties hereto desire to amend the Agreement to update the following Articles: **ARTICLE XXXVIII, Disadvantaged Business Enterprise (DBE) Considerations**; **ARTICLE XXXIX, DBE Participation**; **ARTICLE XL,**

Nondiscrimination; ARTICLE XLII, Debarment and Suspension Certification; ARTICLE XLIV, Disputes, and ARTICLE XLV, Audit Review Procedures, to reflect updated grant funding provisions;

WHEREAS, the parties hereto desire to amend the Agreement to update County's Contract Administrator's Division, amending ARTICLE LIV, Contract Administrator;

WHEREAS, the parties hereto desire to amend the Agreement to add ARTICLE LVIII, Change of Address; ARTICLE LIX, Equipment Purchase; ARTICLE LX, No Third Party Beneficiaries; ARTICLE LXI, Counterparts; ARTICLE LXII, Taxes, and ARTICLE LXIII, Conflict of Interest, to reflect updated County contracting provisions;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Consultant mutually agree to amend the terms of the Agreement in this First Amendment to Agreement for Services # AGMT 11-53293, as follows:

ARTICLE I, Scope of Services, the tenth paragraph is amended to read as follows:

County shall review Consultant's progress at key points as specified in each Task Order or Work Order. Milestone reviews shall be performed for the specific products and deliverables listed in each Task Order and/or Work Order. Milestones may only be changed by written agreement (may consist of an email) between County's Contract Administrator, or designee and Consultant.

ARTICLE II, Term, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE II

Term: This Agreement shall become effective when fully executed by the parties hereto and shall expire on June 30, 2017.

ARTICLE III, Compensation for Services, the second and fifth paragraphs are amended to read as follows:

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "Rate Schedule," incorporated herein and made by reference a part hereof. The billing rates specified in the Task Order or Work Order shall include direct salary cost, employee benefits, overhead and fee, as applicable. The hourly rates listed on the Rate Schedule shall not be adjusted for the performance period set forth in this Agreement.

The total amount of this Agreement, inclusive of all costs, Task Orders and Work Orders, and inclusive of all work of subconsultants and expenses shall not exceed \$400,000.00.

The following paragraph is added to ARTICLE III, Compensation for Services, to read as follows:

Cost Proposals shall be submitted for each Task Order and/or Work Order. Cost Proposals are subject to an audit or Certified Public Accountant Indirect Cost Audit Workpaper Review and are more fully described in ARTICLE XLV, Audit Review Procedures, as amended.

ARTICLE XIV, Prevailing Wage, the first paragraph is amended to read as follows:

County requires Consultant's services on public works project(s) involving local, state and/or federal funds to which prevailing wage requirements may apply. As a consequence, Consultant and any subconsultants authorized in the individual Task Orders and/or Work Orders issued pursuant to this Agreement shall comply with all applicable state and federal prevailing wage rates, statutes, rules and regulations then in effect. In the event of conflict between applicable federal and state provisions, the higher prevailing wage rate will apply. Consultant and its subconsultants shall use the general prevailing wage rates determined by the Director of Industrial Relations for the county in which the work is to be done, which are available at the principal office of County's Community Development Agency. Changes, if any, to the general prevailing wage rates will be available at the same location.

ARTICLE XVII, Notice to Parties, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE XVII

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado
Community Development Agency
Transportation Division
2850 Fairlane Court
Placerville, California 95667

Attn.: Matthew D. Smeltzer, P.E.
Deputy Director, Engineering
Fairlane Engineering Unit

With a copy to:

County of El Dorado
Community Development Agency
Administration and Finance Division
2850 Fairlane Court
Placerville, California 95667

Attn.: Katy Sampson
Assistant Director of
Administration and Finance

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

CH2M Hill, Inc.
2485 Natomas Park Drive, Suite 600
Sacramento, California 95833

Attn.: Leslie Bonneau
Business Vice President

or to such other location as Consultant directs.

ARTICLE XIX, Insurance, paragraphs B and H are amended to read as follows:

- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.
- H. The certificate of insurance must include the following provisions stating that:
 - 1. The insurer will not cancel the insured's coverage without prior written notice to County; and
 - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.

ARTICLE XXI, Interest of Consultant, the following paragraph is added to read as follows:

Consultant shall disclose any financial, business or other relationship with County that may have an impact upon the outcome of this Agreement or any ensuing County construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement or any ensuing County construction project. Consultant has acknowledged this interest of consultant and Consultant has duly executed Exhibit J, marked "Interest of Consultant Disclosure Statement," incorporated herein and made by reference a part hereof. Consultant herein certifies that Consultant does not now have nor shall acquire any financial or business interest that would conflict with the performance of services under this Agreement.

ARTICLE XXXVIII, Disadvantaged Business Enterprise (DBE) Considerations, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE XXXVIII

Disadvantaged Business Enterprise (DBE) Considerations: Consultant must give consideration to DBE firms as specified in 23 CFR 172.5(b) and in Appendix A to Part

26 of 49 CFR. Consultant shall ensure that certified DBE firms have the opportunity to participate in the performance of this Agreement and Consultant shall take all necessary and reasonable steps for such assurance.

As applicable, DBE requirements will be discussed at the meeting or telephone conference held to determine the specific services required in a Task Order or Work Order. County's Contract Administrator will provide Consultant with the necessary DBE forms and information for use and/or submittal with Consultant's Task Order/Work Order proposal or Consultant's final invoice.

ARTICLE XXXIX, DBE Participation, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

**ARTICLE XXXIX
DBE Participation**

- A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." It is the policy of County that certified DBE firms shall have the maximum opportunity to participate in the performance of agreements financed in whole or in part with federal funds. Consultant shall ensure that certified DBE firms, as defined in the Code of Federal Regulations, have the maximum opportunity to participate in the performance of this Agreement and shall take all necessary and reasonable steps, as set forth in said Part 26, for such assurance. Consultant, if it obtains DBE participation on this Agreement, will assist Caltrans in meeting its federally mandated statewide overall DBE goal. Consultant shall prepare and submit a fully-executed "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" form with its final invoice for each Task Order or Work Order issued under this Agreement.
- B. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. Consultant, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as County deems appropriate.
- C. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.
- D. A DBE may be terminated only with prior written approval from County and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting County's consent for the termination, Consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

ARTICLE XL, Nondiscrimination, paragraph A is amended to read as follows:

- A. In connection with its performance under this Agreement, Consultant and its subconsultants, if any, shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including, but not limited to the following: Consultant, its employees, subconsultants and representatives shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, medical condition, mental disability, marital status, age, sex, or denial of family care leave. Consultant and subconsultants, if any are authorized herein, shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants if any are authorized herein, shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12990 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant, its employees, subconsultants and representatives shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

ARTICLE XLII, Debarment and Suspension Certification, paragraph A is amended and paragraph D is added to this article to read as follows:

- A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2, Code of Federal Regulations, Parts 180 and 1200, Debarment and Suspension Certificate, which certifies that it or any person associated therewith in the capacity of the owner, partner, director, officer or manager, is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted or had a civil judgment rendered against it by a court of competent jurisdiction in any manner involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to County.
- D. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the FHWA.

ARTICLE XLIV, Disputes, paragraphs A, B, and C are amended to read as follows:

- A. Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by a committee consisting of County's Contract Administrator and the Community Development Agency Director, or designee, which may consider written or verbal information submitted by Consultant.
- B. Not later than thirty (30) days after completion of all work under any individual Task Order or Work Order issued pursuant to this Agreement, Consultant may request review by County's Board of Supervisors of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

ARTICLE XLV, Audit Review Procedures, paragraph D is added to this article to read as follows:

- D. Consultant and its subconsultants' Agreements, if any, including cost proposals and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a Contract Audit, an Incurred Cost Audit, an ICR Audit, or a Certified Public Accountant (CPA) ICR Audit Workpaper Review. If selected for audit or review, the Agreement, cost proposal and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit Workpaper Review, it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's workpapers. The Agreement, cost proposal, and ICR shall be adjusted by Consultant and approved by County's Contract Administrator to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Task Order and/or Work Order by this reference if directed by County, at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the Federal, State, or local governments have access to CPA workpapers, will be considered a breach of the Agreement terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

ARTICLE LIV, Contract Administrator, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE LIV

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Matthew D. Smeltzer, P.E., Deputy Director, Engineering, Fairlane Engineering Unit, Transportation Division, Community Development Agency, or successor.

The original Agreement is further amended to add the following Articles:

ARTICLE LVIII

Change of Address: In the event of a change in address for Consultant's principal place of business, Consultant's Agent for Service of Process, or Notices to Consultant, Consultant shall notify County in writing as provided in ARTICLE XVII, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE LIX

Equipment Purchase:

- A. Prior authorization in writing, by County's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or Consultant services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in Consultant's Cost Proposal and exceeding \$5,000, prior authorization by County's Contract Administrator is required; three (3) competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this Agreement is subject to the following: "The Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two (2) years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, County shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, Consultant may either keep the equipment and credit County in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established County procedures; and credit County in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by County and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the County." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000.00 is credited to the project.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE LX

No Third Party Beneficiaries: Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

ARTICLE LXI

Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

ARTICLE LXII

Taxes: Consultant certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Consultant to County. Consultant agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE LXIII

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XVI, Default, Termination, and Cancellation, herein.

Except as herein amended, all other parts and sections of Agreement for Services # AGMT 11-53293 shall remain unchanged and in full force and effect.

Requesting Contract Administrator Concurrence:

By: 
Matthew D. Smeltzer, P.E.
Deputy Director, Engineering
Fairlane Engineering Unit
Transportation Division
Community Development Agency

Dated: 6/5/14

Requesting Division Concurrence:

By: 
Bard R. Lower
Transportation Division Director
Community Development Agency

Dated: 6/6/14

Requesting Department Concurrence:

By: 
Steven M. Pedretti, Director
Community Development Agency

Dated: 6/9/14

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement for Services # AGMT 11-53293 on the dates indicated below.

-- COUNTY OF EL DORADO --

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

By: _____

Dated: _____

Deputy Clerk

-- CH2M HILL, INC. --

By: Leslie Bonneau

Leslie Bonneau
Business Vice President
"Consultant"

Dated: 5/29/2014

By: G. W. Eldridge

Gregory W. Eldridge
Designated Manager and
Business Vice President

Dated: 5/29/2014

CH2M Hill, Inc.

Exhibit J

INTEREST OF CONSULTANT DISCLOSURE STATEMENT

Disclosure of Conflicts

In accordance with ARTICLE XXI, Interest of Consultant, as amended, in the space provided below, and on supplemental sheets as necessary, (a) Consultant shall disclose any financial, business or other relationship with County that may have an impact upon the outcome of this Agreement or any ensuing County construction project; and (b) Consultant shall disclose current clients who may have a financial interest in the outcome of this Agreement or any ensuing County construction project.

— None

Certification

The undersigned hereby certifies that, to the best of his or her knowledge and belief, no interest exists that is required to be disclosed in this Interest of Consultant Disclosure Statement, other than as disclosed above.

Leslie Borneau

Signature

Leslie Borneau

Name

Vice President

Title

CH2M HILL

Company Name

6/4/14

Date