

DATE 4-30-07

Contract (EIR) #: DR00-11A

ATTORNEY PPF

CONTRACT ROUTING SHEET

DEPT./INDEX NO. 340100

Date Prepared: April 13, 2007

Need Date: April 23, 2007

BY: [Signature]

PROCESSING DEPARTMENT:

Department: Development Services
 Dept. Contact: Kathy Matranga-Cooper
 Phone #: 5305
 Department: Development Services Dept
 Head Signature: [Signature]

CONTRACTOR:

Name: Pacific Municipal Consultants
 Address: 10461 Old Placerville Road, Suite 110
Sacramento CA 95827
 Phone: (916) 361-8384

2007 APR 16 PM 3: 34
 EL DORADO COUNTY COUNSEL
[Signature]

CONTRACTING DEPARTMENT:

Development Services Department

Service Requested: Preparation of Environmental Impact Report
 Contract Term: Two Years Contract/Amendment Value: \$60,795.00
 Compliance with Human Resources requirements? Yes: No:
 Compliance verified by: _____

COUNTY COUNSEL: (Must approve all contracts and MOU's)

Approved: Disapproved: Date: 4/19/07 By: [Signature]
 Approved: Disapproved: Date: 5/1/07 By: [Signature]
scope of work inadequate

ASSIGNMENT
 DATE 04/17/2007
 ATTORNEY PPM/A F
 DEPT./INDEX NO. 340100
 BY: [Signature]

2007 APR 30 PM 3: 27
 EL DORADO COUNTY COUNSEL
[Signature]

REC'D MAY 03 2007
Environmental Services

RISK MANAGEMENT: (All contracts and MOU's except boilerplate grant funding agreements)

Approved: Disapproved: Date: 5/1/07 By: [Signature]
 Approved: Disapproved: Date: _____ By: _____

RECEIVED
 HUMAN RESOURCES DEP
 MAY - 1 PM 1: 05

OTHER APPROVAL: (Specify department(s) participating or directly affected by this contract)

Departments:
 Approved: Disapproved: Date: _____ By: _____
 Approved: Disapproved: Date: _____ By: _____

AGREEMENT FOR CONSULTANT SERVICES FOR
PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR
76 Gas Station and Circle K Mini-Mart

COUNTY FILE NUMBER DR00-11A (76 Gas Station and Circle K Mini-Mart)
EIR Number (SCH) 2002042112

THIS AGREEMENT is made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Pacific Municipal Consultants, a corporation duly qualified to conduct business in the State of California, whose principal place of business is 10461 Old Placerville Road, Suite 110, Sacramento, CA 95827 (hereinafter referred to as "Consultant");

WITNESSETH

WHEREAS, County has determined that it is necessary to obtain a consultant to assist in the preparation of a legally and technically adequate Environmental Impact Report (hereinafter referred to as the "76 GAS STATION and Circle K Mini-Mart EIR") for the development project described as follows: Proposed 2,976 square foot Circle K mini-mart building and a 76 gas station with six fueling stations (total of 12 fueling positions) under the proposed 4,000 square foot canopy. The project includes three proposed underground fuel storage tanks and underground piping to the dispensing pumps, on-site parking and landscaping (with irrigation), on-site under canopy lighting and building lighting, enclosed trash enclosure, and development of a joint access easement along the southern property boundary. An existing power transformer will be relocated as part of the project. The subject property was modified through the approval of a Boundary Line Adjustment (BLA00-35) on May 16, 2000. The applicant proposes a single free-standing sign meeting the commercial zone district requirements (50-foot maximum height, 80 square feet of sign area).

WHEREAS, Consultant has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

WHEREAS, County has determined that the provision of such services provided by Consultant are in the public's best interest, are more economically and feasibly performed by outside independent consultants as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000; and

WHEREAS, Both County and Consultant make the Agreement with full knowledge of the requirements of the California Environmental Quality Act (CEQA) of 1970 (Public Resources Code, §21000 et seq.) and the State CEQA Guidelines (California Administrative Code, Title 14, Division 6, §15000 et seq.) adopted pursuant thereto.

NOW, THEREFORE, County and Consultant mutually agree as follows:

ARTICLE I

Scope of Services: Consultant agrees to furnish personnel and services necessary to provide services described in the attachments entitled "Project Understanding and Scope of Work," and "Revised Project Budget" and attached hereto and made a part hereof as Exhibits A and B. The "Project Understanding and Scope of Work" is only an outline of the work. Consultant acknowledges that the work is intended to result in a legally and technically adequate EIR which would be certified by the Board of Supervisors of the County of El Dorado.

This agreement is subsequent to the previous Agreement for Consultant Services executed by the Board of Supervisors on February 1, 2005, which has expired effective December 30, 2005. Under the previous Agreement, Consultant had submitted an acceptable Administrative Draft EIR to the County, and had circulated the Draft EIR. Due to the public comments received during the circulation period, further analysis was determined to be required for the Final EIR over and above that anticipated under the previous Agreement, and a revised Scope of Work was prepared by the Consultant and agreed to by the Applicant. The current agreement is to cover additional analysis to determine if revisions to the project site plan are necessary to provide adequate internal circulation, and to include preparation of the Administrative Final EIR and the Final EIR.

ARTICLE II

Term: This Agreement shall become effective when fully executed by both parties hereto and shall expire two years from the date of execution thereof. This Agreement may be extended for one additional one year period if mutually agreed between the parties hereto in writing not less than thirty (30) days prior to the expiration of the then current Agreement.

ARTICLE III

Compensation for Services:

- A. Consultant agrees, understands, and acknowledges that the monies utilized by the County to pay it as set forth under this Agreement are provided by Applicant (**ConocoPhillips Company**) under a separate contract between the County and Applicant. Consultant agrees that payment, or any portion thereof, to it under this Agreement shall be expressly conditioned on, and dependent upon the payment to the County by the Applicant under the terms of said separate contract, and that the County has no obligation to pay Consultant for work performed hereunder until the County received the requisite monies from the Applicant. If the requisite monies are not available to pay Consultant upon submission of a monthly statement under this section, Consultant may suspend work until the Applicant has provided the

required funding.

- B. Subject to (A) above, County shall pay to Consultant a sum not to exceed sixty thousand seven hundred ninety five dollars and no cents, **\$60,795.00**, as outlined on Exhibit B, which said sum shall be in full compensation for all services hereunder including additional analysis of the project based on comments received on the Draft EIR, preparation of the Final EIR, and Consultant's attendance at weekly meetings and all necessary public hearings.

This sum is inclusive of all personnel costs, travel costs, costs of materials, overhead, and profit. This sum may be subject to modification upon mutual agreement memorialized pursuant to Section 26 hereof. Said payment shall be made as follows:

- (1) Consultant shall be paid forty (40) percent of the contract sum upon execution.
- (2) Upon submission of the preliminary draft Final EIR to the County, Consultant shall be paid additional amounts on a monthly basis upon submission, within 15 calendar days from the end of the billing month, and approval of invoices, such that the paid to date shall not exceed a cumulative total of eighty-five (85) percent of the amount of the contract sum.
- (3) Upon submission of an acceptable Final EIR, Consultant shall be paid additional amounts, such that the total paid to date shall not exceed a cumulative total of ninety (90) percent of the amount of the contract sum.
- (4) Upon the occasion of a final decision by the certifying authority as to the Final EIR, or thirty (30) days after acceptance of the Final EIR by County staff, whichever occurs first, the Consultant shall be paid additional amounts, such that the total paid to date shall not exceed a cumulative total of one-hundred (100) percent of the amount of the contract sum.

- C. Subject to Sections A and B above, Consultant will submit monthly invoices and County will pay such invoices within thirty (30) days of receipt

ARTICLE IV

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE V

Consultant to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to

County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during term hereof. The following additional provisions shall also apply:

- A. Conformity with Statutes, Decision, Guidelines, and Ordinances. The EIR shall be written in conformity with all applicable State statutes including but not limited to CEQA (Public Resources Code, §21000 et seq.), State CEQA Guidelines (California Administrative Code, Title 14 Division 6, §15000 et seq.) adopted pursuant thereto as last amended, the Environmental Guidelines (objectives, criteria, and procedures required pursuant to CEQA) last adopted by the County, and in the format presently prescribed by the County. All subjects in the format shall be addressed even if only to state that there is no significant impact. The format may be expanded where necessary to address a subject in greater detail. Conformity with any relevant judicial decisions, guidelines, or ordinances is also required.
- B. Responsibility for Preparation. The EIR shall be prepared for the County in fulfillment of the obligations of the County as the public agency having responsibility for preparation of an EIR for the project. It is understood that the Consultant shall prepare the EIR so as to be as accurate and objective as reasonably possible.
- C. Meetings to be Attended. Consultant shall attend such meetings as County staff determines will be necessary to complete the Consultant's obligations under this Agreement, as specified in the Scope of Work. Additional meetings shall be compensated as specified in any addendum to this Agreement entitled "Change Orders."
- D. Designation of Responsible Principal. The Consultant shall have a Responsible Principal who shall be responsible for the Consultant's obligations under this Agreement who shall serve as principal liaison between the County and the Consultant. Designation of another Responsible Principal by the Consultant is subject to a mutually agreed upon written amendment. The name of the Responsible Principal is **Philip O. Carter**, or his designee.
- Consultant shall provide experienced and qualified personnel, to carry out the work to be performed by Consultant under this Agreement and shall be responsible for and in full control of the work of such personnel. Consultant may retain subconsultant for data collection with the prior approval of County, and consultant shall be responsible for and in full control of the work of such subconsultants. The Responsible Principal shall notify County when Consultant contacts, or is contacted by, Applicant, as well as the substantive nature of said contact.
- E. Relationship Between Parties: Work Standards. The parties to this Agreement agree that the relation created by, and for the duration of, this Agreement is that of

independent contractor. Consultant is not an agent or employee of the County employees, including but not limited to works' compensation insurance and unemployment insurance. The County shall not provide office or other workspace for Consultant. Consultant will adhere to professional standards and will perform all services required under this Agreement in a manner consistent with generally accepted procedures for the preparation of an EIR. Consultant assumes responsibility for the EIR being prepared in a professional manner. Consultant acknowledges that the County is the ultimate authority, and must effect independent judgment, as to the contents of the EIR and its adequacy. In the event of any disagreements between Consultant and the County staff, subconsultants if any, the Applicant, or experts or other consultants retained by Applicant, Consultant shall immediately report such disagreement to the Development Services Department Deputy Director-Planning Services who shall have sole authority to decide and resolve all such disagreements. Nothing in this paragraph shall be deemed to negate, effect, or alter the independent contractor relationship between the parties to this Agreement.

- F. Materials and Equipment. Consultant shall furnish, at his/her/its own expense, all materials and equipment necessary to carry out the terms of this Agreement. Consultant shall be liable for any personal injury or property damage resulting from the use, misuse, or failure of such equipment.
- G. County to Furnish Information Available. All information, data, records, and maps which are available in County records for performing Consultant's services as specified herein, shall be furnished by the County to the Consultant. Upon request of Consultant, the County shall furnish the names and addresses of interested public agencies, but the Consultant shall be responsible for all liaisons which may be made with these agencies, or other interested parties. Consultant shall be responsible to developing and obtaining any additional information reasonably required to complete the EIR.
- H. Correction of Errors. The correctness and completeness of any information furnished by the Consultant shall be within the discretion of the Development Services Department Deputy Director-Planning Services. The Consultant will perform any field work and will prepare any maps, charts, or data necessary to correct errors, omissions, discrepancies, deficiencies, or ambiguities in the EIR without additional compensation. Consultant will give immediate attention to these changes so that there will be no delay to the County in meeting the schedule set forth in the work program and contract.
- I. Consultant Responsibility to Prepare EIR. Consultant shall prepare the Administrative Draft Final EIR and deliver five (5) copies of the document for review by the County. County shall review the Administrative Draft Final EIR and notify the Consultant of any deficiencies. Within fourteen (14) calendar days of receipt of the notification of deficiencies in the Administrative Draft Final EIR for the County, Consultant shall rewrite, correct and reprocess the Administrative

Draft Final EIR to produce a Final EIR in full satisfaction of all the County's comments. At the end of the above time period, or sooner, Consultant shall deliver fifty (50) copies of the Final EIR and Draft Mitigation Monitoring Program to the County.

- J. Hearing as to Certification. The County will then arrange an appropriate time and date for hearing by the appropriate decision-making body or bodies. Consultant shall attend all such hearings and be ready, willing to, able to, and shall, present the EIR and shall answer questions as to its completeness and adequacy. Following action on certification by the decision-making body, Consultant shall supply the County with six (6) copies of any finally certified EIR within fourteen (14) calendar days. One (1) copy shall be camera-ready. If the decision-making body should order that the EIR be augmented by additional or supplemental data necessary to correct errors, omissions, discrepancies, deficiencies, or ambiguities prior to certification, the Consultant shall furnish the necessary additional or supplemental data or documents as part of his obligations under this Agreement. As used in this Agreement, certification means certification by the final decision-making body that an EIR has been completed in compliance with CEQA and the State and County Guidelines.
- K. Data Developed in Public Domain. All information, data, maps, charts, and studies developed by the Consultant which are made a part of the Final EIR, are in the public domain and may be used by the Consultant or the County as property within the public domain. Consultant, by signing this Agreement, disclaims any copyright or other rights to the information published in, or made a part of, the Final EIR.
- L. Documents, Maps, and Photographs Developed are County Property. All original documents, maps, charts, photographs, and other material prepared by the Consultant which are made a part of the Final EIR shall be the property of the County and shall be delivered to the County prior to final payment. Consultant shall not be held responsible for any reuse of the County-owned documents for a purpose for which it was not intended.

ARTICLE VI

Confidentiality: Consultant shall maintain the confidentiality and privileged nature of all records together with any knowledge therein acquired, in accordance with all applicable State and Federal laws and regulations, as they may now exist or may hereafter be amended or changed. Consultant, and all Consultant's staff, employees and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to the El Dorado County Development Services Department for the purpose of, and in the performance of the Agreement. This confidentiality agreement shall survive after the expiration or termination of this Agreement.

ARTICLE VII

Assignment and Delegation: Consultant is engaged by County for their unique qualifications and skills as well as those of their personnel. Consultant shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

ARTICLE VIII

Independent Consultant/Liability: Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment. Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

ARTICLE IX

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year. Notwithstanding any other provision of the Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder. In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE X

Default, Termination, and Cancellation:

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may

be extended in the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date in which the extension of time to cure expires. Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means, and if the cost of finishing the work exceeds the unpaid balance on this Agreement Consultant shall pay the difference to County.

- B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part seven (7) calendar days upon written notice by County for any reason. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Consultant, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

ARTICLE XI

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:

Larry Appel, Deputy Director-Planning Services
El Dorado County Development Services Department
2850 Fairlane Court
Placerville, California 95667

or to such other location as the County directs.

Notices to Consultant shall be addressed as follows:

Pacific Municipal Consultants
ATTN: Philip O. Carter, President
10461 Old Placerville Road, Suite 110
Sacramento, California 95827

Or to such other location as the Consultant directs.
Notices shall be deemed delivered when personally delivered or twenty-four hours after mailing.

ARTICLE XII

Indemnity: The Consultant shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with Consultant's services, operations or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Consultant, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the County, it's officers and employees, or as expressly prohibited by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XIII

Insurance: Consultant shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile liability insurance of not less than \$500,000 is required in the event motor vehicles are used by the Consultant in performance of the contract.
- D. In the event Consultant is a licensed professional, and is performing professional services under this contract, professional liability (for example, malpractice insurance) is required with a limit of liability not less than \$1,000,000 per occurrence.
- E. Consultant shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.

- F. The insurance will be issued by an insurance company acceptable to the Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Consultant agrees that the insurance required above shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, Consultant agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Risk Management Division and Consultant agrees that no work or services shall be performed prior to the giving of such approval. In the event the Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this contract upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
- (1) The insurer will not cancel the insured's coverage without thirty (30) day prior written notice to the County; and
 - (2) The County of El Dorado, its officers, officials, employees, and designated volunteers are included as additional insured, but only insofar as the operations under this contract are concerned. This provision shall apply to all liability policies except workers' compensation and professional liability insurance policies.
- I. The Consultant's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and designated volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or designated volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and designated volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or designated volunteers.

- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this contract for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department either independently or in consultation with the Risk Management Division, as essential for protection of the County.

ARTICLE XIV

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XV

Interest of Consultant: Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant. No officer, member, or employee of the County and no member of its Board of Supervisors, and no other public official of the governing body of the locality or localities in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in or attempt to influence any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested; nor shall any such officer, member of its Board of Supervisors, or public official of the governing body of the locality or localities in which the project is situated or being carried out, have or acquire any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XVI

California Residency (Form 590): All independent Consultants providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. The Consultant will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Consultant during term of the Agreement. This requirement applies to any Agreement/contract exceeding \$1,500.00.

ARTICLE XVII

California Forum and Law: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XVIII

Administrator: The County Officer or employee with responsibility for administering this Agreement is Peter Maurer, Principal Planner, Development Services Department, or successor.

ARTICLE XIX

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XX

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXI

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

REQUESTING DEPARTMENT CONCURRENCE:

By:


Gregory L. Fuz, Director

Dated:

5-14-07

El Dorado County Development Services Department

plw

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first below written.

-- COUNTY OF EL DORADO --

Dated: _____

By: _____

Chairman
Board of Supervisors
"County"

ATTEST:
Cindy Keck, Clerk
of the Board of Supervisors

By: _____
Deputy Clerk

Date: _____

-- CONSULTANT --

Dated: 5-8-07

By: *Philip O. Carter*

Philip O. Carter, President
Pacific Municipal Consultants, Inc.
"Consultant"

ATTEST: *Jennifer LeBoeuf*
Jennifer LeBoeuf, Corporate Secretary
Pacific Municipal Consultants, Inc.

Project Understanding and Scope of Work

PREPARATION OF THE FINAL EIR

The response to comments received on the Draft EIR requires analysis beyond our original scope of work for the Circle K /76 Station EIR. The time and effort spent to date in preparing the Administrative Draft EIR, which is not yet complete, as well as coordinating the approach for the Final EIR has exhausted all but \$22,157 of the now expired contract.

Specific comments received on the Draft EIR address turning movements internal to the project site, whether access at the gas station driveways would result in increased queues in the roadway, and safety issues related to queue lengths/gas station access. As a result of the comments received on the Draft EIR, El Dorado County Department of Transportation has determined that it is appropriate to conduct additional analysis of the project, including analysis of on-site circulation, the sight distance to the project access and accident history. The issues associated with on-site circulation were not scoped in the traffic study prepared for the EIR, and were not discussed in the Draft EIR circulated for the project.

Review of Revised Site Plans/Turning Exhibits. Based on comments regarding site access and internal circulation, analysis of the ability of vehicles to complete on-site turning movements is necessary. At our meeting regarding the approach to the project, it was identified that the applicant would provide exhibits demonstrating accessibility and adequate room for internal circulation. To date, PMC and KDAnderson have reviewed five exhibits prepared by the applicant depicting turning movements as part of this initial work effort. The first two exhibits did not depict the future lane configurations for the roadways serving the project site. The third through fifth exhibits show access at one fueling positions for a van and trailer and RV towing a SUV, but do not fully demonstrate accessibility as only three vehicle positions are shown instead of demonstrating a complete path through the project site. We anticipate receiving additional exhibits: 1) exhibits demonstrating the entire path through the project site for the RV towing the SUV example (the current exhibit only shows the RV at three locations in the project site and does not necessarily show the full path that the RV would take; it also does not take into account turning restrictions when exiting the site under future conditions) and showing either access to other fueling positions or adequate queuing space in the event that the accessible fueling positions are in use when the RV/SUV enter the site; and 2) exhibits demonstrating that a fuel tanker will be able to access the project site with the future roadway configurations and showing the entire path through the project site. PMC and KDAnderson will specify the various movements (e.g., eastbound vs. westbound approach to fueling station for the most northerly pumps, etc) using AutoTURN that will need to be provided by the project applicant. The exhibits should not assume that these vehicles will drive on the sidewalks, over the fueling station, or on the curbed or landscaped areas of the site.

Additional Work Effort for the Final EIR. PMC had begun to draft the Final EIR based on the comments received on the Draft EIR. A number of comments raised issues that exceeded the scope of work identified for the Draft EIR. The majority of these issues are associated with transportation and circulation issues. Specific issues associated with transportation and circulation are described below.

- *Revision to identify potential impacts on internal circulation*

The Final EIR will discuss potential impacts associated with internal circulation in response to comments received on the Draft EIR. The original scope of work for the Draft EIR did not include analysis of internal circulation and turning movements. This assessment will be conducted based on the exhibits provided by the project applicant using the software program AutoTURN, which will be reviewed as described above.

- *Sight distance and stopping distance*

The original scope of work identified: "Where applicable, the effects of project traffic on background pedestrian / bicycle activity and safety will be evaluated. Roadway or access improvements which should be installed concurrently with the project to insure safety or to provide adequate capacity will be identified." That scope of work did not include detailed, quantitative analysis of sight distance and stopping distance. However, comments on the Draft EIR have raised the issue. The Final EIR will analyze sight distance and stopping sight distance at each of the project driveways using methods and acceptable distances described in the Caltrans Design Manual.

- *Accident History*

The original scope of work for the Draft EIR did not include researching accident history at the intersection. In response to comments received on the Draft EIR, the Final EIR will include a review of SWITRS accident data US 50 Eastbound Ramps / Ponderosa Road / S. Shingle Road / Mother Lode Drive intersection will be undertaken to determine whether the project could exacerbate any existing traffic conditions currently occurring.

Project Management. The work effort required to keep the environmental review of this project progressing, including receipt of materials, appropriate approach for the EIR, and coordination with the County, applicant and subconsultant on Final EIR/Revised Draft EIR issues, has exceeded the initial estimate for project management in the original scope of work. Additional hours are provided in the budget.

**76 Gas Station/Circle K
Project Budget
April 10, 2007**

Task Description	Senior Associate \$140	Project Manager \$115	Senior/ Associate Planner \$90	Graphics/ Admin. \$65	Sub-Consultants	Outside Direct Costs	Totals
I. Preparation of Final EIR							
Review of Revised Site Plans/ Turning Exhibits	3.0 \$420	23.0 \$2,645	21.0 \$1,890	0.0 \$0			47.0 \$6,891
Additional Work Effort for FEIR	6.0 \$840	40.0 \$4,600	100.0 \$9,000	12.0 \$780	\$1,936	\$0	\$6,891 \$158.0
Review and Production of Final EIR	4.0 \$560	2.0 \$230	12.0 \$1,080	12.0 \$780	\$11,462		\$26,682 \$30.0
Subtotal	13.0	65.0	133.0	24.0	0.0	\$1,587	\$4,237
Task I	\$1,820	\$7,475	\$11,970	\$1,560	\$13,398	\$1,587	\$37,810
II. Draft EIR/Administrative Final EIR							
Draft EIR and Admin. Final EIR Preparation	1.0 \$140	79.0 \$9,085	150.0 \$13,500	4.0 \$260			234.0 \$22,985
Subtotal	1.0	79.0	150.0	4.0			234.0
Task II	\$140	\$9,085	\$13,500	\$260	\$0	\$0	\$22,985
CONTRACT TOTALS							
Project Hours	14.0	144.0	283.0	28.0	0.0	0.0	469.0
Project Cost	\$1,960	\$16,560	\$25,470	\$1,820	\$13,398	\$1,587	\$60,795

*Subconsultants total cost includes a 10% administrative mark-up

pu



Exhibit C

COUNTY OF EL DORADO, CALIFORNIA BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number D-1	Page Number: 1 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

BACKGROUND:

This policy applies to County officers and employees as well as members of boards and commissions required to travel in or out of county for the conduct of County business. This policy also provides for expenses of public employees from other jurisdictions when specifically referenced in policy provisions set forth below.

For ease of reference, the Travel Policy is presented in the following sections:

1. General Policy
2. Approvals Required
3. Travel Participants and Number
4. Mode of Transport
5. Reimbursement Rates
 - a. Maximum Rate Policy
 - b. Private Auto
 - c. Meals
 - d. Lodging
 - e. Other
6. Advance Payments
7. Compliance – Responsibility of Claimant
8. Procedures



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number D-1	Page Number: 2 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

POLICY:

1. General Policy

- a. County officers and employees should not suffer any undue loss when required to travel on official County business, nor should said individuals gain any undue benefit from such travel.
- b. County officers or employees compelled to travel in the performance of their duties and in the service of the County shall be reimbursed for their actual and necessary expenses for transportation, parking, tolls, and other reasonable incidental costs, and shall be reimbursed within maximum rate limits established by the Board of Supervisors for lodging, meals, and private auto use. "Actual and necessary expenses" do not include alcoholic beverages.
- c. Travel arrangements should be as economical as practical considering the travel purpose, traveler, time frame available to accomplish the travel mission, available transportation and facilities, and time away from other duties.
- d. Employees must obtain prior authorization for travel, i.e., obtain approvals before incurring costs and before commencing travel.
- e. Receipts are required for reimbursement of lodging costs, registration fees, public transportation and for other expenses as specified, or as may be required by the County Auditor-Controller.

plw



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number: D-1	Page Number: 3 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

- f. Requests for travel authorization and reimbursement shall be processed using forms specified by the County Auditor and Chief Administrative Office.
 - g. The Chief Administrative Officer may, at his or her sole discretion, authorize an exception to requirements set forth in this Travel policy, based on extenuating circumstances presented by the appropriate, responsible department head. Any exception granted by the Chief Administrative Office is to be applied on a case-by-case basis and does not set precedent for future policy unless it has been formally adopted by the Board of Supervisors.
2. Approvals Required
- a. Department head approval is required for all travel except by members of the County Board of Supervisors. Department heads may delegate approval authority when such specific delegation is approved by the Chief Administrative Officer. However, it is the expectation of the Chief Administrative Officer that department heads take responsibility for review and approval of travel.
 - b. Chief Administrative Office approval is required when travel involves any of the following:
 - (1) Transportation by common carrier (except BART), e.g., air, train, bus.
 - (2) Car rental.
 - (3) Out-of-county overnight travel.
 - (4) Members of boards or commissions, or non-county personnel.

pw



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject:	Policy Number	Page Number:
TRAVEL	D-1	4 of 14
	Date Adopted:	Revised Date:
	12/22/1987	05/25/1999

- (5) Any exceptions required for provisions within this policy, e.g., travel requests not processed prior to travel, requests exceeding expense guidelines or maximums.
- c. It remains the discretion of the Chief Administrative Officer as to whether or not costs of travel which were not authorized in advance will be reimbursed, and whether or not exceptional costs will be reimbursed.
3. Travel Participants and Number
- a. Department heads and assistants should not attend the same out-of-county conference; however, where mitigating circumstances exist, travel requests should be simultaneously submitted to the Chief Administrative Office with a justification memorandum.
- b. The number of travel participants for each out-of-county event, in most instances, should be limited to one or two staff members, and those individuals should be responsible for sharing information with other interested parties upon return.
- c. If out-of-county travel involves training or meetings of such technical nature that broader representation would be in the best interest of the County, the department head may submit a memo explaining the situation to the Chief Administrative Office, attached to travel requests, requesting authorization for a group of travelers.
- d. Board of Supervisors members shall be governed by the same policies governing County employees except for the following:



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number D-1	Page Number: 5 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

- (1) A member of the Board of Supervisors requires NO specific authorization.
- (2) The following expenses incurred by a member of the Board of Supervisors constitute a County charge:
 - (a) Actual expenses for meetings and personal travel, necessarily incurred in the conduct of County Business. This includes but is not limited to mileage incurred while traveling to and from the Board members' residence and the location of the chambers of the Board of Supervisors while going to or returning from meetings of the Board of Supervisors.
- e. Non-County personnel travel expenses are not normally provided for since only costs incurred by and for county officers and employees on county business are reimbursable. However, reimbursement is allowable for county officers (elected officials and appointed department heads) and employees who have incurred expenses for non-county staff in the following circumstances:
 - (1) Meals for persons participating on a Human Resources interview panel when deemed appropriate by the Director of Human Resources.
 - (2) Conferences between County officials and consultants, experts, and public officials other than officers of El Dorado County, which are for

PW



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number D-1	Page Number: 6 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

the purpose of discussing important issues related to County business and policies.

- (3) Transportation expenses for a group of County officers and employees and their consultants, and experts on a field trip to gain information necessary to the conduct of County business.
- (4) Lodging expenses for non-county personnel are NOT reimbursable except when special circumstances are noted and approved in advance by the Chief Administrative Office. Otherwise, such expenses must be part of a service contract in order to be paid.

4. Mode of Transport

- a. Transportation shall be by the least expensive and/or most reasonable means available.
- b. Private auto reimbursement may be authorized by the department head for county business travel within county and out of county. Reimbursement shall not be authorized for commuting to and from the employee's residence and the employee's main assigned work site, unless required by an executed Memorandum of Understanding between the County and a representing labor organization, or one-time, special circumstances approved by a department head.
- c. Out of county travel by county vehicle or private vehicle may be authorized if the final destination of the trip does not exceed a four (4) hour driving distance from the County offices. Any exception to this policy must receive

plw



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number D-1	Page Number: 7 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

prior approval from the Chief Administrative Officer. If air travel would be more economical, but the employee prefers to drive even though travel by car would not be in the County's best interest, the County will reimburse transportation equal to the air travel; transportation costs over and above that amount, as well as any extra days of lodging and meals, etc., will be considered a personal, not reimbursable cost of the traveler.

- d. Common carrier travel must be in "Coach" class unless otherwise specifically authorized in advance by the Chief Administrative Officer. Generally, any costs over and above coach class shall be considered a personal, not reimbursable expense of the traveler.

- (1) Rental cars may be used as part of a trip using public transportation if use of a rental car provides the most economical and practical means of travel. The use of a rental car must be noted on the Travel Authorization in advance and authorized by the Department Head and Chief Administrative Officer. Justification for the use of the rental car must accompany that request. Rental car costs will not be reimbursed without prior authorization except in the case of emergencies. Exceptions may be granted at the sole discretion of the Chief Administrative Officer or designated CAO staff.

5. Reimbursement Rates

- a. Maximum rates for reimbursement may not be exceeded unless due to special circumstances documented by the department head and approved by the Chief Administrative Officer. The amount of any reimbursement



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number D-1	Page Number: 8 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

above the maximum shall be at the sole discretion of the Chief Administrative Officer.

b. Private Auto

Travel by private auto in the performance of "official County business" shall be reimbursed at the Federal rate as determined by the Internal Revenue Service.

Mileage for travel shall be computed from the employee's designated work place. If travel begins from the employee's residence, mileage shall be calculated from the residence or work place, whichever is less. (For example, an employee who lives in Cameron Park and drives to a meeting in Sacramento, leaving from the residence will be paid for mileage from the residence to Sacramento and back to the residence.)

The mileage reimbursement rate represents full reimbursement, excluding snow chain installation and removal fee, for expenses incurred by a County officer or employee (e.g., fuel, normal wear and tear, insurance, etc.) during the use of a personal vehicle in the course of service to El Dorado County.

c. Meals

Actual meal expenses, within maximum allowable rates set forth below, may be reimbursed routinely out-of-county travel, and for in-county overnight travel. Meals will not be provided for in-county travel or meetings which do not involve overnight lodging, unless special circumstances are involved such as the following:

pw



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number D-1	Page Number: 9 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

- (1) When meals are approved as part of a program for special training sessions, conferences, and workshops;
- (2) when employees traveling from the western slope of the county to Lake Tahoe and vice-versa are required to spend the entire work day at that location;
- (3) when the Director of Human Resources deems it appropriate to provide meals to a Human Resources interview panel;
- (4) when Senior Managers and/or Executives of El Dorado County or the El Dorado County Water Agency meet with executives of other governmental agencies, community organizations, or private companies in a breakfast, lunch or dinner setting in order to conduct County business. While such meetings are discouraged unless absolutely necessary to the efficient conduct of County or Water Agency business, such expenses for County managers require approval by the Chief Administrative Officer.

Actual costs of meals may be reimbursed up to a total of \$40 per day without regard to how much is spent on individual meals (e.g., breakfast, lunch, dinner, snacks), and without receipts. If an employee is on travel status for less than a full day, costs may be reimbursed for individual meals within the rates shown below.

Breakfasts may be reimbursed only if an employee's travel consists of at least 2 hours in duration before an employee's regular work hours. Dinner

plw



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject:	Policy Number	Page Number:
TRAVEL	D-1	10 of 14
	Date Adopted:	Revised Date:
	12/22/1987	05/25/1999

may be reimbursed if travel consists of at least 2 hours in duration after an employee's regular work hours.

Maximum Allowable Meal Reimbursement

Breakfast	\$8.00
Lunch	\$12.00
Dinner	\$20.00
Total for full day	\$40.00/day

d. Lodging

- (1) Lodging within county may be authorized by a department head if assigned activities require an employee to spend one or more nights in an area of the county which is distant from their place of residence (e.g., western slope employee assigned to 2-day activity in South Lake Tahoe).
- (2) Lodging may be reimbursed up to \$125 per night, plus tax, single occupancy. The Chief Administrative Office may approve extraordinary costs above these limits on a case by case basis when the responsible department head and Chief Administrative Office determine that higher cost is unavoidable, or is in the best interest of the County.
- (3) Single rates shall prevail except when the room is occupied by more than one County employee. However, nothing in this policy shall be construed to require employees to share sleeping accommodations

plw



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject:	Policy Number	Page Number:
TRAVEL	D-1	11 of 14
	Date Adopted:	Revised Date:
	12/22/1987	05/25/1999

while traveling on County business. In all travel, employees are expected to secure overnight accommodations as economically as possible and practical.

- (4) Lodging arrangements should be made, whenever possible and practicable, at hotels/motels which offer a government discount, will waive charges to counties for Transient Occupancy Tax, or at which the County has established an account. When staying at such a facility, the name of the employee and the department must appear on the receipt of the hotel/motel bill.

e. Other Expenses

All other reasonable and necessary expenses (i.e., parking, shuttle, taxi, etc.) will be reimbursed at cost if a receipt is submitted with the claim. Receipts are required except for those charges where receipts are not customarily issued, for example, bridge tolls and snow chain installation and removal fees. When specific cost guidelines are not provided by the county, reasonableness of the expense shall be considered by the department head and Chief Administrative Officer before deciding whether to approve.

Reasonable costs for snow chain installation and removal may be claimed and reimbursed. The purchase cost of snow chains would not be an allowable charge against the county.

6. Advance Payments



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: TRAVEL	Policy Number D-1	Page Number: 12 of 14
	Date Adopted: 12/22/1987	Revised Date: 05/25/1999

The Auditor may provide advance funds for estimated "out of pocket" expenses up to seventy-five percent (75%), but no less than \$50.00. The "out of pocket" expenses may include meals, taxi and public transportation, lodging, parking, and pre-registration costs.

7. Compliance - Claimant Responsibility

It is the responsibility of the claimant to understand and follow all policies and procedures herein in order to receive reimbursement for mileage, travel and expense claims. Any form completed improperly or procedure not followed may result in the return of a claim without reimbursement.

8. Procedures:

- a. Authorization to incur expenses must be obtained as set forth in this County policy, and as may be directed by the department.
- b. Requests for advance funds for anticipated travel expenses itemized on the Travel Authorization Request form are obtained by indicating this need on that form prior to processing the request.
- c. Forms which require Chief Administrative Office approval should be submitted to the Chief Administrative Office, after department head approval, at least 7 to 10 days prior to travel to allow time for processing through County Administration and Auditor's Department.
- d. Cancellation of travel, requires that any advanced funds be returned to the Auditor Controller's office within five (5) working days of the scheduled

pu



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject:	Policy Number	Page Number:
TRAVEL	D-1	13 of 14
	Date Adopted:	Revised Date:
	12/22/1987	05/25/1999

departure date. If the advance is not returned within this time frame, the employee could jeopardize their standing to receive advances in the future.

- e. Travel Claims are due to the Auditor within 30 days after completion of travel. Personal Mileage and Expense Claims are due to the Auditor within 15 days after the end of each calendar month. The due date may be extended if deemed appropriate by the County Auditor. Claims must itemize expenses as indicated on claim forms, and must be processed with receipts attached.
- f. Reimbursements will be provided expeditiously by the County Auditor upon receipt of properly completed claim forms. The Auditor's Office shall promptly review claims to determine completeness, and if found incomplete, will return the request to the claimant noting the areas of deficiency.
- g. Personal Mileage and Expense Claim forms should be completed for each calendar month, one month per claim form. These monthly claims are due to the Auditor within 15 days following the month end; however, the deadline may be extended if deemed appropriate by the County Auditor. If monthly amounts to be claimed are too small to warrant processing at the end of a month (i.e., if cost of processing would exceed the amount being claimed), the claims for an individual may be accumulated and processed in a batch when a reasonable claim amount has accrued. In any event, such claims shall be made and submitted to the County Auditor for accounting and payment within the same fiscal year as the expense was incurred.
- h. Expense Claim Form

Pur



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject:	Policy Number	Page Number:
TRAVEL	D-1	14 of 14
	Date Adopted:	Revised Date:
	12/22/1987	05/25/1999

For the purpose of travel and meeting expenses, the claim form is to be used for payments to vendors. The employee must obtain Department Head approval and submit the claim to the Auditor's Office within sixty (60) days of the incurred expense.

pu

**REIMBURSEMENT AGREEMENT FOR FUNDING OF
CONSULTANT SERVICES FOR PREPARATION OF AN
ENVIRONMENTAL IMPACT REPORT FOR THE**

76 Gas Station and Circle K Mini-Mart

COUNTY FILE NUMBER DR00-11A

EIR NUMBER (SCH) 2002042112

THIS REIMBURSEMENT AGREEMENT is entered on the date set forth below by the County of El Dorado, a political subdivision of the State of California, hereinafter called "County", and ConocoPhillips Company, hereinafter referred to as "Applicant," whose principal place of business is located at 76 Broadway Avenue, Sacramento, CA. 95818.

WITNESSETH

WHEREAS, Applicant is proposing to develop certain real property in El Dorado County described as Assessor Parcel Number(s) 090-430-42 and has submitted an application for a Design Review in order to develop a proposed 76 Gas Station and Circle K Mini-Mart, the subject of pending application number(s) DROO-11.

WHEREAS, County has determined an Environmental Impact Report (EIR) is clearly required for the processing of the aforementioned project pursuant to CEQA Guidelines Section 15064 and hereinafter referred to as the "76 Gas Station and Circle K Mini-Mart EIR."

WHEREAS, the California Environmental Quality Act, Section 21082.1 authorizes the County to enter into agreements to prepare environmental assessments for a proposed project including the preparation of an Environmental Impact Report and Mitigation Monitoring Program, and

WHEREAS, the California Environmental Quality Act, Section 21089 authorizes the County to collect fees to recover the costs for the preparation and processing of environmental documents,

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. **Purpose.** The purpose of this Agreement is to provide for a mechanism for the Applicant to reimburse the County for the costs incurred in the preparation of an EIR for the aforementioned project. Both County and Applicant make this Agreement with full knowledge of the requirements of the California Environmental Quality Act of 1970 (Public Resources Code, 21000 et seq.) and the State CEQA Guidelines (California Administrative Code, Title 14, Division 6, '15000 et seq.) adopted pursuant thereto. This Agreement is subject to all other applicable laws, regulations, and ordinances including those of the County of El Dorado relating to payment of monies for services rendered.
2. **Project.** The project is the approval of a proposed Design Review application in order to develop a proposed 76 Gas Station and Circle K Mini-Mart, the subject of pending application number(s) DROO-11 on that real property described as Assessor Parcel Number(s) 090-430-42.
3. **Application.** The application is for the approval of the proposed Design Review application in order to develop a proposed 76 Gas Station and Circle K Mini-Mart, the subject of pending application number(s) DROO-11 on that real property described as Assessor Parcel Number(s) 090-430-42.

4. **Employment of Consultant as Independent Contractor.** The County, in furtherance of this Agreement shall engage a consultant, as an independent contractor, to prepare an EIR and to assist with its processing and certification for the project. The EIR shall be prepared for the County in fulfillment of the obligations of the County as the public agency having primary responsibility for discretionary actions involved in said project (Public Resources Code, 21082). Accordingly, Consultant shall prepare said report so as to be accurate and objective as reasonably possible. It is further agreed that in all matters pertinent to this application, the Consultant shall act solely as the Consultant to the County and shall not act, in any capacity as consultant to, representative of, or agent of the Applicant. The Applicant shall not engage in communications or contact with the Consultant without prior written authorization of the County.

5. **Funding for this Agreement.** The funding of this Agreement is provided for, and entirely by, the Applicant who shall make a deposit and maintain funds with the County to pay the cost of preparation of the EIR and the preparation of the Mitigation Monitoring Program, but not the implementation of said Mitigation Monitoring Program. Applicant, upon execution of this Agreement, shall deposit with the County the sum of **Sixty Thousand Seven Hundred Ninety-Five dollars** (which equals 100% of the proposed total contract amount with Consultant of \$60,795.00) as compensation for the Consultant to be engaged by the County for preparation of the EIR and the preparation of the Mitigation Monitoring Program.

County shall draw against said funds deposited to pay all costs incurred pursuant to this Agreement. At the end of this Agreement, County shall provide Applicant with an accounting of the amounts disbursed from the fund to Consultant.

It is understood that the deposit, or deposits, made by the Applicant to fund this Agreement are the only source of funding for this Agreement and the Agreement contemplated between County and its Consultant. By deposit of the above-referenced funds, and by execution hereof, Applicant agrees that County may utilize said funds to compensate its Consultant to do the necessary work to prepare the appropriate and necessary documents.

6. **Deposit.** The County shall place Applicant's deposits under this Agreement into a separate fund.
7. **Reimbursement.** Upon completion of the EIR or termination of this Agreement the County shall reimburse the Applicant for the difference between the County's costs to fund its Consultant, as set forth above, and the amount deposited if the total costs are less than the amount deposited by the Applicant.
8. **Conformity with Statutes, Decisions, Guidelines, and Ordinances.** The EIR shall be prepared in conformity with all applicable State statutes including but not limited to the California Environmental Quality Act (CEQA) of 1970 (Public Resources Code, 21000 et seq.) and the State CEQA Guidelines (California Administrative Code, Title 14, Division 6, 15000 et seq.) adopted pursuant thereto, the Environmental Guidelines (objectives, criteria, and procedures pursuant to CEQA) last adopted by the County of El Dorado and in the format

prescribed by the County. The execution of this Agreement shall not constitute a representation or assurance by the County that the EIR shall be certified or that the project will be approved.

9. **Interest of Applicant and Consultant.** The Applicant covenants that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree of the Consultant's services hereunder. Applicant covenants that it will notify the County if the County engages, or attempts to engage, a consultant who has performed any work or provided any services under contract or agreement directly with the project or any part of the project herein described or who has performed work of provided services for the Applicant on any other development project within the preceding five (5) years.

10. **Notices and Correspondence.**

- A. Notices and correspondence to County shall be delivered to:

Larry Appel, Deputy Director-Planning Services
El Dorado County Development Services Department
2850 Fairlane Court
Placerville, California 95667.

- B. Notice and correspondence to Applicant shall be deemed delivered when personally delivered to, or 24 hours after mailing, addressed to Applicant as follows:

ConocoPhillips Company
c/o Bill Borgh
76 Broadway Avenue
Sacramento, California 95818.

12. **Amendments.** No amendment of this Agreement shall be valid or binding unless made in writing, signed, and duly authorized on behalf of both parties.

13. **Administrator.** The County Officer or employee with responsibility for administering this Agreement is Peter Maurer, Principal Planner, Development Services Department, or successor.
14. **Termination.** Either the County or Applicant may terminate this Agreement by presentation to the other party hereto of written notice of said termination fifteen (15) days prior to effective date of said termination. In the event of termination by either party, the County shall retain fees from the funds deposited an amount equal to all consultant fees and other costs incurred prior to the effective date of said termination. The balance of funds deposited by Applicant shall be reimbursed to the Applicant.
15. **Assignment.** This Agreement shall be binding upon the successors-in-interest and assigns of Applicant.
16. **Entire Agreement.** This document is the entire agreement between the parties. The execution of this Agreement shall not constitute a representation or assurance by the County that the EIR shall be certified.
17. **Agreement Negotiated.** It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiation and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.
18. **Entire Agreement.** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

REQUESTING DEPARTMENT CONCURRENCE:

By: _____ Dated: _____
Gregory L. Fuz, Director
El Dorado County Development Services Department

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first below written.

-- COUNTY OF EL DORADO --

Dated: _____

By: _____
Chairman
Board of Supervisors
"County"

ATTEST:
Cindy Keck, Clerk
of the Board of Supervisors

By: _____ Date: _____
Deputy Clerk

-- CONSULTANT --

Dated: 6/6/07

By: _____
President, U.S. Marketing
ConocoPhillips Company
"Consultant"

ATTEST: _____
Corporate Secretary
ConocoPhillips Company