

**Reinard W. Brandley  
Consulting Airport Engineer**

**FIRST AMENDMENT TO AGREEMENT FOR SERVICES # AGMT 08-52526**

**THIS FIRST AMENDMENT** to that Agreement for Services # AGMT 08-52526 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 Reinard W. Brandley, doing business as Reinard W. Brandley, Consulting Airport Engineer, a sole proprietorship duly qualified to conduct business in the State of California, whose principal place of business is 6125 King Road, Suite 201, Loomis, California 95650, (hereinafter referred to as "Consultant");

**R E C I T A L S**

**WHEREAS**, Consultant has been engaged by County to provide airport planning, design engineering and related services pursuant to Agreement for Services # AGMT 08-52526, incorporated herein and made by reference a part hereof;

**WHEREAS**, the operation and administration of County Airport Facilities has been transferred from the General Services Department to the Department of Transportation and the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to acknowledge that change;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to include Task Order requirements, amending **ARTICLE I, Scope of Services**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to extend the expiration date from March 20, 2011 to December 31, 2011 to provide time for Consultant to complete design engineering work for Project # 93124 – Perimeter Fence and Gates at the Placerville Airport, amending **ARTICLE II, Term**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to clarify the method of payments and to add a more detailed fee schedule, amending **ARTICLE III, Compensation for Services** and adding **Amended Exhibit A, Amended Schedule of Charges**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to provide for the use of subconsultants; to ratify the use of subconsultants as identified in Notices to Proceed which have been issued under the Agreement prior to the effective date of this Amendment; and to acknowledge and accept the specific provisions under which the use of subconsultants are predicated, amending **ARTICLE I, Scope of Services**; **ARTICLE III, Compensation for Services**; **ARTICLE VI, Changes to Agreement**; **ARTICLE VIII, Assignment and Delegation**; **ARTICLE IX, Independent Consultant/Liability**; and **ARTICLE XIV, Insurance**; and adding **ARTICLE XXVIII, Progress Reports**; **ARTICLE XXIX, Consultant's Project Manager**; and **ARTICLE XXX, Confidentiality**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to clarify the ownership of data requirements, amending **ARTICLE IV, Ownership of Rights**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to change County's notices recipients, amending **ARTICLE XII, Notice to Parties**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to change County's Contract Administrator, amending **ARTICLE XX Administrator**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to correct typographical errors in the numbering of four (4) of the Articles in the original Agreement, amending the Article numbers only of mis-numbered **ARTICLE XVII, Taxpayer Identification Number (Form W-9)**; mis-numbered **ARTICLE XV Disadvantage Business Enterprises (DBE) Assurances**; mis-numbered **ARTICLE XVI, Contract Assurances**; and mis-numbered **ARTICLE XVII, Entire Agreement**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to include standards for work requirements, adding **ARTICLE XXXI, Standards for Work**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to add prevailing wage requirements, adding **ARTICLE XXXII, Prevailing Wage**;

**WHEREAS**, the parties hereto desire to amend Agreement for Services # AGMT 08-52526 to include additional contract provisions required by the use of federal and state grant funds, amending **ARTICLE IV, Ownership of Rights**; **ARTICLE XI, Default, Termination, and Cancellation**; **ARTICLE XIII, Indemnity**; and renumbered **ARTICLE XXV, Disadvantage Business Enterprises (DBE) Assurances**; deleting renumbered **ARTICLE XXVI, Contract Assurances**; and adding **ARTICLE XXXIII, General Federal & State Grant Funding Requirements**; **ARTICLE XXXIV, Airport and Airway Improvement Act of 1982, Section 520 - General Civil Rights Provisions**; **ARTICLE XXXV, Lobbying and Influencing Federal Employees**; **ARTICLE XXXVI, Access to Records and Reports**; **ARTICLE XXXVII, Trade Restriction Clause**; **ARTICLE XXXVIII, Certification Regarding Debarment & Suspension**; **ARTICLE XXXIX, Trafficking in Persons**; and **ARTICLE XL, Buy American Requirement**;

**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 08-52526, as follows:

**The First Recital of the original Agreement is deleted in its entirety and the following First Recital is added in its place to read as follows:**

**WHEREAS**, County has determined that it is necessary to obtain a Consultant to provide planning, environmental, geotechnical, design engineering, construction engineering and related services associated with County Airport Facilities for the Department of Transportation;

**Article I, Scope of Services, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

#### **ARTICLE I**

**Scope of Services:** Consultant agrees to furnish personnel, subconsultants, materials, equipment, supplies and services necessary to provide planning, environmental, geotechnical, design engineering, construction engineering and related services associated with County Airport Facilities. Services shall include, but not be limited to:

- A. Prepare necessary applications for Federal Aviation Administration (FAA) grant funding and represent County in discussions with the FAA regarding the work program, grant requirements and project documentation.
- B. Provide airport and aviation-related planning services required by County to include, but not be limited to: airport master planning, airport layout plan development, terminal area planning, facilities construction, land acquisition, land use planning, and environmental planning and documentation.
- C. Provide airport and aviation-related design and engineering services as required by County to include, but not be limited to: geotechnical studies, pavement evaluation studies, drainage studies, airport design and engineering, terminal area design and engineering, value engineering, cost estimating, development of plans and specifications, bid documents, construction observation, testing and inspection, and project coordination. The projects on which these engineering services may be required over the next five-year period include construction of runways, taxiways, aprons, fences, roads, parking lots, lighting, hanger buildings, fixed base operator (FBO) buildings, and related facilities as required by County.
- D. Provide miscellaneous airport planning, engineering, operational and management support services as may be required from time to time by County.

All plans and specifications shall be developed in accordance with all current applicable federal standards and requirements, or state standard specifications developed under a federal grant, and no deviation from or modification to standards set forth in the FAA advisory circulars will be allowed without prior approval of County and the FAA.

For the period beginning with the effective date of this Amendment and continuing through the remaining term of this Agreement, before proceeding with any work under this Agreement, the parties will identify the specific services to be provided for each assignment in individual Task Orders to be issued in accordance with this Agreement. The specific services for each assignment shall be determined at a meeting or telephone conference between Consultant and County's Contract Administrator, or designee, to discuss the

needs, applicable design standards, required deliverables, specific Consultant staff, subconsultants (if required), and any task-related mileage or per diem budget, if applicable, on a task-by-task basis. Following the meeting, Consultant shall provide the Contract Administrator with a written scope of work, a schedule including a list of tasks with completion dates and a target completion date for the overall scope of work, and a not-to-exceed cost to complete the work (resulting in a Task Order), which shall require written approval, authorization, and written notification to proceed from County's Contract Administrator, prior to commencement of the work. No payment will be made for any work performed prior to approval and full execution of the Task Order, and no payment will be made for amounts in excess of the not-to-exceed amount of the Task Order.

Consultant shall provide the Contract Administrator with the names and titles of Consultant's representatives that are authorized to bind Consultant by signing Task Orders and Task Order Amendments on Consultant's behalf. Consultant's notification of individuals authorized to execute Task Orders and Task Order Amendments on Consultant's behalf shall be communicated to County in accordance with the provisions of Article XII, Notice to Parties of this Agreement.

The period of performance for Task Orders shall be in accordance with dates specified in each Task Order. No payment will be made for any work performed before or after the period of performance in the Task Order, unless County's Contract Administrator and Consultant amend the Task Order. No Task Order will be written which extends beyond the expiration date of this Agreement, nor the cumulative total of the not-to-exceed Contract amount.

If a submittal or Task Order deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft Office 2003 applications (specifically, MS Word, MS Project and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). Electronic AutoCAD 2008 or AutoCAD Civil 3D 2008 format shall be used for submittal of plans or other similar documents as specified by the Contract Administrator. Newer versions of software may be used and other engineering software used for analytical purposes may be authorized if approved in advance by County's Contract Administrator. All deliverables shall be submitted in language, format and design that are compatible with and completely transferable to County's computer and engineering applications and that are acceptable to County's Contract Administrator. Failure to submit the required deliverables in the format required shall be grounds for termination of the Agreement, as provided in Article XI, Default, Termination, and Cancellation herein.

All of the services included in this Article are the responsibility of Consultant, unless specifically described as a task or item of work to be provided by County. Consultant shall be responsible for the supervision, administration and work performed by any subconsultant for services rendered under this Agreement.

**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 December 31, 2011.

**Article III, Compensation for Services, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

## **ARTICLE III**

**Compensation for Services:** For services provided herein including all of the deliverables described in individual Task Orders issued pursuant to this Agreement, and including the progress reports required in Article XVIII, Progress Reports herein, County agrees to pay Consultant monthly in arrears. Payment shall be made within thirty (30) days following County receipt and approval of itemized invoices detailing services rendered. For all services except Environmental Services, payment will only be made after FAA and State grants covering Consultant's services have been awarded to County. If the FAA and State grants are not awarded, Consultant shall not be entitled to any payments for services (other than for Environmental Services) rendered in anticipation of the grant awards. If the amounts of the awarded FAA and State grants are insufficient to cover the costs of Consultant's services, County shall only be obligated to pay Consultant for the amounts covered by the awarded grants, inclusive of County's grant match requirement. County shall pay Consultant for eighty percent (80%) of design costs (less the costs for any Environmental Services already paid) upon County's acceptance of complete plans and specifications for each project and the remaining twenty percent (20%) shall be payable upon the completion and County's acceptance of the construction of each project. For Environmental Services only, County will pay Consultant prior to an FAA or State grant being awarded. Payment will be made for Environmental Services monthly in arrears and within thirty (30) days following County receipt and approval of itemized invoices detailing the Environmental Services rendered.

For the purposes hereof, for the period beginning March 21, 2008 and continuing through the day before the effective date of this Amendment, the billing rates shall be in accordance with Exhibit A, marked "Schedule of Charges," and with Exhibit B, marked "Board of Supervisors policy D-1," both of which exhibits are incorporated herein and made by reference a part hereof.

For the period beginning with the effective date of this Amendment and continuing through the remaining term of the Agreement, the billing rates shall be in accordance with Amended Exhibit A, marked "Amended Schedule of Charges," incorporated herein and made by reference a part hereof.

Reimbursement for mileage, travel, vehicle rentals and per diem expenses, if applicable, shall not exceed the rates to be paid to County employees under the current Board of Supervisors Travel Policy at the time the expenses are incurred. Mileage reimbursement, vehicle rentals, travel and per diem rates apply to Consultant and to any subconsultants authorized under this Agreement. There shall be no markups allowed on such expenses for Consultant or for any subconsultant.

Subconsultant services, if any are authorized in the individual Task Orders issued pursuant to this Agreement, shall be invoiced at Consultant's cost for the services rendered. Any invoices that include subconsultant costs shall be accompanied by backup documentation to substantiate Consultant's cost for the subconsultant services being billed.

The total amount payable by County for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless County's Contract Administrator and Consultant amend the Task Order.

The total amount of this Agreement, as amended, inclusive of all costs, Task Orders and all work of subconsultants and expenses shall not exceed \$500,000.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number and the assigned Task Order number both on their faces and on any enclosures or backup documentation. Consultant shall bill County for only one Task Order per invoice. Consultant shall attach a copy of each notification to proceed required under the provisions of Article I, Scope of Services, and copies of any progress reports required under the provisions of Article XXVIII, Progress Reports, that relate to the services being billed, as backup documentation to any invoices submitted for payment under the terms of this Agreement. Any invoices which include charges for testing services by outside laboratories or for subconsultants shall be accompanied by backup documentation to substantiate Consultant's actual cost for each item billed. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado  
Department of Transportation  
2850 Fairlane Court  
Placerville, California 95667  
Attn: Administration Division – Accounts Payable

or to such other location as County directs.

In the event that Consultant fails to deliver, in the format specified, the deliverables and progress reports required by this Agreement, County at its sole option may delay the monthly payment for the period of time of the delay, cease all payments until such time as the required deliverables and progress reports are received, or proceed as set forth in Article XI, Default, Termination, and Cancellation herein.

**Article IV, Ownership of Rights, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

#### **ARTICLE IV**

**Ownership of Data:** Upon completion or earlier termination of all services under this Agreement, or upon completion or earlier termination of each Task Order issued pursuant to this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations and any and all other materials or data produced as

part of this Agreement will automatically be vested in County and no further agreement will be necessary to transfer ownership to County. Consultant shall furnish County all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process for each assignment.

County and Consultant hereby expressly agree that all plans, details, and calculations produced by Consultant, its agents, representatives, employees, or subconsultants, shall be considered a “work made for hire” within the meaning of 17 USC § 101. County shall have sole ownership of all rights, for all purposes, in each completed work, and unused portions thereof, including any copyrights.

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grants under which this contract is executed. As used in this Article, term “Sponsor” refers to “County.”

**Article VI, Changes to Agreement, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

#### **ARTICLE VI**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Amendments may be made to permit mutually acceptable changes in the scope, character or complexity of the work if such changes become desirable or necessary as the work progresses. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto. There shall be no change in Consultant’s Project Manager or subconsultants without prior written approval by County’s Contract Administrator.

**Article VIII, Assignment and Delegation, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

#### **ARTICLE VIII**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its 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. Notwithstanding this Article, Consultant is authorized to utilize the specific subconsultants that may be authorized in individual Task Orders issued pursuant to this Agreement. Consultant shall require each subconsultant, to the extent of the work to be performed by the subconsultant, to be bound to Consultant by the terms of this Agreement and to assume toward Consultant all of the obligations and responsibilities that Consultant, by this Agreement, assumes toward County.

Notwithstanding any provision to the contrary, at no time shall County be obligated to pay separately for subconsultant services.

**Article IX, Independent Consultant/Liability, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

## **ARTICLE IX**

**Independent Contractor/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 the terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subconsultants, 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, in accordance with good engineering practices, and shall be liable for its own negligence and negligent acts of its employees and subconsultants. 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 or subconsultants.

**Article XI, Default, Termination and Cancellation, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

## **ARTICLE XI**

### **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 at 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.

- B. Bankruptcy: This Agreement, at the option of 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 or any Task Order issued pursuant to this Agreement in whole or in part upon seven (7) calendar days' 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 not-to-exceed amount of the Task Order or the total amount of the contract, as applicable. 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. 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.

- E. Breach of Contract: Any violation or breach of terms of this Agreement on the part of Consultant or its subconsultants may result in the suspension or termination of this Agreement or such other action that may be necessary to enforce the rights of the parties to this Agreement. The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- F. Federal Termination Provision: Pursuant to 49 CFR Part 18.36 (i)(2) and FAA Oder 5100.38, the following termination provision is required in all procurement contracts that exceed \$10,000 and that are funded by federal Airport Improvement Program (AIP) funds. As used herein, "Sponsor" refers to County and "contractor" refers to Consultant.
1. The Sponsor may, by written notice, terminate this Contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the Contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Contract, whether completed or in progress, delivered to the Sponsor.
  2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the Contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
  3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
  4. If, after notice of termination for failure to fulfill Contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor.

In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the Sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

**Article XII, 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 XII**

**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:

With a copy to:

County of El Dorado  
Department Of Transportation  
2850 Fairlane Court  
Placerville, California 95667

County of El Dorado  
Department Of Transportation  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Russell A. Nygaard,  
Deputy Director of Engineering

Attn: Janel Gifford,  
Office Engineer/Contract Services Unit

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Reinard W. Brandley  
Consulting Airport Engineer  
6125 King Road, Suite 201  
Loomis, California 95650

or to such other location as Consultant directs.

**Article XIII, Indemnity, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

**ARTICLE XIII**

**Indemnity:** To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, agents, employees and representatives, the State of California, the California Transportation Commission (CTC) and agencies of the federal government and State, CTC and federal agency officers, agents, employees and representatives from and against any and all claims, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable

attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, County, State, CTC and federal agency employees, and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of Consultant includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778. Each party shall notify the other parties immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

**Article XIV, Insurance, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

#### **ARTICLE XIV**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to County's Risk Management Division 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 \$1,000,000 is required in the event motor vehicles are used by Consultant in performance of the Agreement.
- D. In the event Consultant is a licensed professional and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Consultant shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's 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 herein shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires at any time or times during the term of this contract, Consultant shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event 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. New certificates of insurance are subject to the approval of County's Risk Management Division, and Consultant agrees that no work or services shall be performed prior to the giving of such approval.

- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without 30-day prior written notice to County; and
  - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all general and excess liability insurance policies.
- I. Consultant's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to, and approved, by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or 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 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 Agreement 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 County's Risk Management Division as essential for protection of County.

In addition, Consultant shall ensure that all subconsultants authorized pursuant to this Agreement shall maintain workers' compensation, general liability, auto liability and professional liability insurance as specified above and shall provide County with proof of same.

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

#### **ARTICLE XX**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Russell A. Nygaard, Deputy Director of Engineering, Facilities Engineering Division, Department of Transportation, or successor.

**The original Agreement is further amended to change the Article Numbers only of mis-numbered ARTICLE XVII, Taxpayer Identification Number (Form W-9); mis-numbered ARTICLE XV, Disadvantage Business Enterprises (DBE) Assurances; mis-numbered ARTICLE XVI, Contract Assurances; and mis-numbered ARTICLE XVII, Entire Agreement; as follows:**

The Article number only of mis-numbered ARTICLE XVII, Taxpayer Identification Number (Form W-9), at page eight (8) of the original Agreement is hereby amended to read: **ARTICLE XVIII, Taxpayer Identification Number (Form W-9).**

The Article number only of mis-numbered ARTICLE XV, Disadvantage Business Enterprises (DBE) Assurances, at page ten (10) of the original Agreement is hereby amended to read: **ARTICLE XXV, Disadvantage Business Enterprises (DBE) Assurances.**

The Article number only of mis-numbered ARTICLE XVI, Contract Assurances, at page eleven (11) of the original Agreement is hereby amended to read: **ARTICLE XXVI, Contract Assurances.**

The Article number only of mis-numbered ARTICLE XVII, Entire Agreement, at page eleven (11) of the original Agreement is hereby amended to read: **ARTICLE XXVII, Entire Agreement.**

**Renumbered Article XXV, Disadvantage Business Enterprises (DBE) Assurances, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:**

#### **ARTICLE XXV**

**Disadvantaged Business Enterprises (DBE) Assurances:** As used in this Article, "Contractor" and "prime contractor" refer to "Consultant," "subcontractor" refers to "subconsultant" and "recipient" refers to "County."

- A. **Policy:** It is the policy of the U.S. Department of Transportation (DOT) that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Agreement.
- B. **DBE Obligation:** Consultant agrees to ensure that disadvantaged business enterprises, as defined in CFR 49 Part 23 have the maximum opportunity to participate in the performance of contracts or subcontracts financed in whole or in part with federal funds provided under this Agreement. In this regard, all Consultants shall take all necessary and reasonable steps in accordance with CFR 49 Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Consultants shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.
- C. **Contract Assurance (§26.13):** The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
- D. **Prompt Payment (§26.29):** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from County. The prime contractor agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of County. This clause applies to both DBE and non-DBE subcontractors.

**Renumbered Article XXVI, Contract Assurances, of the original Agreement is deleted in its entirety.**

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

#### **ARTICLE XXVIII**

**Progress Reports:** Upon the issuance of a Task Order, Consultant shall submit progress reports to the Contract Administrator at intervals that are commensurate with the requirements of the items of work and tasks being performed and based upon a mutually agreeable schedule. At a minimum, Consultant shall submit progress reports once per month. The reports shall be sufficiently detailed for the Contract Administrator to determine if Consultant is performing to expectations and is on schedule, to provide communication of interim findings, and to afford occasions for airing difficulties or special circumstances encountered so that remedies can be developed. County's review of these

reports will ensure that Consultant's work meets a level of acceptability as determined by the Contract Administrator, and Consultant shall be required to modify its work as necessary to meet that level of acceptability as defined by the Contract Administrator. Separate detail shall be provided for each ongoing item of work and Task Order. Progress reports shall include the total number of hours worked by Consultant and any authorized subconsultants and shall include descriptions of the work and tasks performed, including a description of any deliverables submitted during the reporting period and the anticipated work, tasks and deliverables proposed for the subsequent reporting period. Any invoices submitted by Consultant for payment under the terms of this Agreement shall include copies of the progress reports that relate to the services being billed on those invoices.

#### **ARTICLE XXIX**

**Consultant's Project Manager:** Consultant designates Reinard W. Brandley, Civil Engineer, as its Project Manager for this Agreement. Consultant's Project Manager, or County-approved designee, shall be accessible to County's Contract Administrator, or designee, during normal County working hours and shall respond within twenty-four (24) hours to County inquiries or requests. Consultant's Project Manager shall be responsible for all matters related to Consultant's personnel, operations and any subconsultants authorized under this Agreement including, but not limited to (1) assigning qualified personnel to perform the work and to prepare the deliverables required by the Agreement; and (2) reviewing, monitoring, training and directing Consultant's personnel and any subconsultants authorized herein.

#### **ARTICLE XXX**

##### **Confidentiality:**

- A. Consultant shall maintain the confidentiality and privileged nature of all records, including billing records, all financial, statistical, personal, technical, or other data and information relative to County's operations 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, including any subconsultants authorized herein, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Department of Transportation for the purpose of, and in the performance of, this Agreement.
- B. Permission to disclose information on one occasion shall not authorize Consultant to further disclose such information, or disseminate the same on any other occasion.
- C. Consultant shall not comment publicly to the press or any other media regarding this Agreement or County's actions on the same, except to County's staff, Consultant's own personnel or authorized subconsultants involved in the performance of this Agreement, at public hearings or in response to questions from a Legislative committee.

- D. Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this Agreement without prior review of the contents thereof by County, and receipt of the Contract Administrator's written permission.
- E. All information related to any construction estimates prepared or otherwise obtained in the performance of this Agreement is confidential, and shall not be disclosed by Consultant to any entity other than to County.
- F. Any non-final or draft administrative reports, studies, materials and documentation, including but not limited to, all environmental documents and any Project Report (PR), relied upon, produced, created or utilized for any items of work performed under this Agreement shall be held in confidence pursuant to Government Code §6254.5(e) until release in accordance with the California Environmental Quality Act (CEQA). County and Consultant agree that such material will not be distributed, released or shared with any other organization, person or group other than County's and Consultant's employees and agents whose work requires that access.

#### **ARTICLE XXXI**

**Standards for Work:** Services provided under this Agreement shall be performed in accordance with, and in full compliance with, County, State and FAA polices, procedures, advisories, manuals and guidelines. Environmental services shall also be performed in accordance with, and in full compliance with, County, State and, as applicable, FAA guidelines including the National Environmental Policy Act (NEPA), Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982, all NEPA guidelines and related regulations, the California Environmental Quality Act (CEQA), Public Resources Code Sections 210000 et. seq., and in full compliance with CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Sections 150000 et. seq., such that the work will result in NEPA and CEQA certifiable environmental documents. Services shall further conform, as applicable, to all federal and state statutes, regulations and procedures relating to federal-aid programs, and all applicable federal laws, regulations and policy and procedural or instructional memoranda and advisory circulars.

All of Consultant's services and deliverables must adhere to current County, Caltrans and FAA requirements for project design and development and shall be made available to County, Caltrans and the FAA for review and approval at stages specified in the individual Task Orders issued pursuant to the Agreement and as directed by the Contract Administrator.

Deliverables shall be prepared in conformance with the standards, regulations, policies, procedures, manuals, advisory circulars and guidelines stated herein above. The responsible Engineer shall sign all plans, specifications, estimates (PS&E) and all engineering data furnished by Consultant and where appropriate, indicate the Engineer's registration number.



Consultant has full responsibility for the accuracy and completeness of the deliverables required under this Agreement including reports and such other documents that may be required for the items of work assigned. Assistance, cooperation and oversight by County, Caltrans, FAA or other regulatory agencies shall not relieve Consultant of this professional responsibility.

All work must be performed and work products prepared in a format and manner customarily anticipated by the appropriate approving agencies.

## **ARTICLE XXXII**

**Prevailing Wage:** County requires Consultant's services on public works projects involving local, state and/or federal funds to which prevailing wage requirements may apply. As a consequence, Consultant and any subconsultants authorized 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 offices of the District Director of Transportation for the district in which the work is situated. Changes, if any, to the general prevailing wage rates will be available at the same location. The federal minimum wage rates are determined by the United States Secretary of Labor and may be examined at the office described above. Future effective general prevailing wage rates which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates.

Consultant and any authorized subconsultants shall comply with all applicable wage requirements, as set forth in Labor Code Sections 1770 et seq., 1773.2, 1775, 1776, 1810, and 1813. In accordance with the provisions of Labor Code Section 1810, eight (8) hours of labor shall constitute a legal day's work upon all work done hereunder, and Consultant and any subconsultant authorized under this Contract shall also conform to and be bound by the provisions of Labor Code Sections 1810 through 1815.

## **ARTICLE XXXIII**

**General Federal & State Grant Funding Requirements:** County is relying on federal assistance or grants and state grant funds for all or a portion of the funding for the services to be provided herein. As a requirement of County's use of federal and state grant funds, County is required to comply with certain contracting requirements and to extend those requirements to its third party contracts. Consultant shall comply with all applicable provisions of federal, state and local agency regulations, including those required by FAA grant funding requirements, advisory circulars, regulations and related executive orders regarding the use, expenditure, control, reporting, allowable costs and management of such funds. Consultant shall further comply with all applicable provisions of the Caltrans Local Assistance Procedures Manual the Local Assistance Program Guidelines and other Caltrans guidelines and requirements as they pertain to aeronautics or the FAA and all applicable state and federal laws, regulations and policy, procedural, advisory or

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

For the purposes of this Agreement, Consultant shall comply, as applicable, with all Federal laws, regulations, executive orders, policies, guidelines and requirements as they relate to the application, acceptance and use of Federal funds including, but not limited to the following:

**Federal Legislation:**

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.<sup>1,2</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a<sup>1</sup>
- l. Title 49 ,U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et. seq.
- p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- q. Architectural Barriers Act of 1968 – 42 U.S.C. 4151, et seq.<sup>1</sup>
- r. Power plant and Industrial Fuel Use Act of 1978 - Section 403 - 2 U.S.C. 8373.<sup>1</sup>
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- t. Copeland Antikickback Act - 18 U.S.C. 874.<sup>1</sup>
- u. National Environmental Policy Act of 1969 – U.S.C. 4321 et seq.<sup>1</sup>

- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

**Executive Orders:**

- a. Executive Order 11246 - Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs.
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction)
- f. Executive Order 12898 - Environmental Justice

**Federal Regulations:**

- a. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 – Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 – Airport noise compatibility planning.
- d. 29 CFR Part 1 – Procedures for predetermination of wage rates.<sup>1</sup>
- e. 29 CFR Part 3 – Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- f. 29 CFR Part 5 – Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- g. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- h. 49 CFR Part 18 – Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- i. 49 CFR Part 20 – New restrictions on lobbying.
- j. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation – effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.

- l. 49 CFR Part 24 – Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.<sup>1,2</sup>
- m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 – Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.<sup>1</sup>
- o. 49 CFR Part 29 – Government wide debarment and suspension (non-procurement) and government wide requirements for drug-free workplace (grants).
- p. 49 CFR Part 30 – Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 41 – Seismic safety of Federal and federally assisted or regulated new building construction.<sup>1</sup>

**Office of Management and Budget Circulars:**

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

<sup>1</sup> These laws do not apply to airport planning sponsors<sup>4</sup>.

<sup>2</sup> These laws do not apply to private sponsors<sup>4</sup>.

<sup>3</sup> 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private entities receiving Federal assistance under Title 49, United States Code.

<sup>4</sup> As used in this Article, “Sponsor(s)” refers to “County.”

**ARTICLE XXXIV**

**Airport and Airway Improvement Act of 1982, Section 520 – General Civil Rights**

**Provisions:** Consultant assures that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which federal

assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### **ARTICLE XXXV**

##### **Lobbying and Influencing Federal Employees:**

- A. No Federal appropriated funds shall be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any federal grant.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal grant, Consultant shall complete and submit to County Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

#### **ARTICLE XXXVI**

**Access to Records and Reports:** Consultant shall maintain an acceptable cost accounting system. Consultant agrees to provide County, State, the State Auditor, the Secretary of the U.S. Department of Transportation, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of Consultant which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. Consultant agrees to maintain all books, records and reports required under this Contract for a period of not less than three (3) years after final payment is made and all pending matters are closed.

#### **ARTICLE XXXVII**

**Trade Restriction Clause:** The terms "contractor" and subcontractor used in this Article refer to "Consultant" and "subconsultant" and the term "Sponsor" refers to "County." Contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- A. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- B. has not knowingly entered into any contract or subcontract for the projects contemplated under this Contract with a person that is a citizen or national of a foreign country on said list, or is owned or controlled

directly or indirectly by one or more citizens or nationals of a foreign country on said list;

C. has not procured any product nor subcontracted for the supply of any product for use on the projects contemplated under this Contract that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the U.S. Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the projects that are the subject of this Contract, the Federal Aviation Administration may direct through the Sponsor cancellation of the Contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the Sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

#### **ARTICLE XXXVIII**

**Certification Regarding Debarment & Suspension:** The terms "bidder/offeree" and "bidder/offeree/contractor" used in this Article refer to "Consultant." The bidder/offeree certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. It further agrees by submitting this proposal that it will include this clause without

modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

## **ARTICLE XXXIX**

**Trafficking in Persons:** The following provisions, applicable to County as the recipient of FAA grants shall also apply, as applicable, to Consultant:

### **A. Provisions applicable to a recipient that is a private entity.**

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - ii. Procure a commercial sex act during the period of time that the award is in effect; or
  - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
  - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
  - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either —
    - a. Associated with performance under this award; or
    - b. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 49 CFR Part 29.

**B. Provision applicable to a recipient other than a private entity.** We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity--

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either —
  - i. Associated with performance under this award; or

- ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at *49 CFR Part 29*.

**C. Provisions applicable to any recipient.**

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
  - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
  - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

**D. Definitions.** For purposes of this award term:

1. "Employee" means either:
  - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
  - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity":
  - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
  - ii. Includes:
    - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
    - B. A for-profit organization.



4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

**ARTICLE XL**

**Buy American Requirement:** Unless otherwise approved by the FAA, Consultant shall not acquire or permit any subconsultant to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this Contract. Consultant shall include in every subcontract a provision implementing this provision.

Except as herein amended, all other parts and sections of Agreement for Services # AGMT 08-52526 shall remain unchanged and in full force and effect.

**Contract Administrator Concurrence:**

By: \_\_\_\_\_  
Russell A. Nygaard  
Deputy Director of Engineering  
Facilities Engineering Division  
Department of Transportation

Dated: \_\_\_\_\_

**Requesting Department Concurrence:**

By: \_\_\_\_\_  
James W. Ware, P.E.  
Director of Transportation

Dated: \_\_\_\_\_

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amendment to Agreement for Services # AGMT 08-52526 on the dates indicated below, the latest of which shall be deemed to be the effective date of this Amendment.

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

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Board of Supervisors  
"County"

Attest:  
Suzanne Allen de Sanchez  
Clerk of the Board of Supervisors

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Deputy Clerk

**-- REINARD W. BRANDLEY,  
CONSULTING AIRPORT ENGINEER --**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Reinard W. Brandley, Individually  
and doing business as  
Reinard W. Brandley,  
Consulting Airport Engineer  
"Consultant"

**Reinard W. Brandley  
Consulting Airport Engineer**

**Amended Exhibit A  
Schedule of Charges**

Principal/Chief Engineer	\$200/hour
Resident Engineer	\$90/hour
Design Engineer	\$90/hour
Junior Engineer	\$70/hour
Senior Inspector	\$80/hour
Junior Inspector	\$60/hour
Senior Drafter	\$80/hour
Junior Drafter	\$60/hour
Testing Technician	\$60/hour
Clerical	\$60/hour
Per Diem	*
Vehicle Rentals	*
Laboratory Usage Cost	\$200/month
Survey Equipment Usage Cost	\$200/month
In-house Laboratory Tests & Mix Designs	Standard Rates Quoted on Request
Testing Laboratory Services by Outside Laboratory	Cost + 10%
Auto Mileage	*

\*Reimbursement for mileage, travel, vehicle rentals and per diem expenses, if applicable, shall not exceed the rates to be paid to County employees under the current Board of Supervisors Travel Policy at the time the expenses are incurred. Mileage reimbursement, vehicle rentals, travel and per diem rates apply to Consultant and to any subconsultants authorized under this Agreement. There shall be no markups allowed on such expenses for Consultant or for any subconsultant.

**ORIGINAL** COPY

AGREEMENT FOR SERVICES #625-S0811

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**THIS AGREEMENT** 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 Reinard W. Brandley, Civil Engineer, duly qualified to conduct business in the State of California, whose principal place of business is 6125 King Road, Suite 201, Loomis, CA 95650, (hereinafter referred to as "Consultant");

**WITNESSETH**

**WHEREAS**, County has determined that it is necessary to obtain a Consultant to provide engineering services necessary for the El Dorado County Airport Facilities for the Department of General Services, Airports, Parks and Grounds Division; and

**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 these services provided by Consultant is in the public's best interest, and that these services 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;

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

## **ARTICLE I**

**Scope of Services:** Consultant agrees to perform services necessary to provide engineering services necessary for the El Dorado County Airport Facilities for the Department of General Services, Airports, Parks and Grounds Division. Services shall include, but not limited to:

1. Prepare necessary applications for Federal Aviation Administration (FAA) grant funding and represent the County/Owner in discussions with the FAA regarding the work program, grant requirements, and project documentation.
2. Provide airport and aviation-related planning services required by County/Owner to include, but not be limited to: airport master planning, airport layout plan development, terminal area planning, facilities construction, land acquisition, land use planning, and environmental planning and documentation.
3. Provide airport and aviation-related design and engineering services as required by the County/Owner to include, but not be limited to: geotechnical studies, pavement evaluation studies, drainage studies, airport design and engineering, terminal area design and engineering, value engineering, cost estimating, development of plans and specifications, bid documents, construction observation, testing and inspection, and project coordination. The projects on which these engineering services may be required over the next five-year period include construction of runways, taxiways, aprons, fences, roads, parking lots, lighting, hanger buildings, FBO buildings, etc.. as required by County/Owner.
4. Provide miscellaneous airport planning, engineering, operational and management support services as may be required from time to time by the County/Owner.

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire three (3) years from date thereof.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, County agrees to pay Consultant monthly in arrears and within thirty (30) days following the County's receipt and approval of itemized invoice(s) identifying services rendered. For the purposes of this Agreement, the billing rate shall be in accordance with Exhibit "A" marked "Schedule of Charges" and Exhibit "B" marked "Board of Supervisors Policy D-1" incorporated herein and by reference made part hereof.

Total amount of this Agreement shall not exceed \$500,000.00.

#### **ARTICLE IV**

**Ownership of Rights:** County and Consultant hereby expressly agree that all plans, details, and calculations produced by Consultant, its agents, representatives, employees, or sub-contractors, shall be considered a "work made for hire" within the meaning of 17 USC Sec. 101. County shall have sole ownership of all rights, for all purposes, in each completed work, and unused portions thereof, including the copyrights.

#### **ARTICLE V**

**Engineering License:** The Consultant hereby warrants and represents that Consultant or any subconsultant is licensed to practice Engineering as required by the State of California. The Consultant agrees to provide professional services that reflect the standards of professional care

#### **ARTICLE VI**

**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 VII**

**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.

#### **ARTICLE VIII**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its 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 IX**

**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 X**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado 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 fiscal 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 this 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 XI**

### **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 at 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 on 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.

- 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 upon seven (7) calendar days written notice by County without cause. 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 XII**

**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 addressed as follows:

COUNTY OF EL DORADO  
3000 FAIRLANE COURT  
PLACERVILLE, CA 95667  
ATTN: JORDAN POSTLEWAIT

or to such other location as the County directs.

Notices to Consultant shall be addressed as follows:

REINARD W. BRANDLEY  
6125 KING ROAD, SUITE 201  
LOOMIS, CA 95650

or to such other location as the Consultant directs.



### **ARTICLE XIII**

**Indemnity:** To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, agents, employees and representatives from and against any and all claims, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of Consultant includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

### **ARTICLE XIV**

**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 \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Consultant in the performance of the Agreement.
- D. In the event Consultant is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 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 Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.

- G. Consultant agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, 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 Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management 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 Agreement 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) days prior written notice to County, and;
  2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Consultant's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or 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, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and 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 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 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 Agreement for not less than three (3) years following completion of performance of this Agreement.

- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of the County.

#### **ARTICLE XV**

**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 XVI**

**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.

#### **ARTICLE XVII**

**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 XVIII**

**Taxpayer Identification Number (Form W-9):** All independent Consultants or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

#### **ARTICLE XIX**

**County Business License:** It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

## **ARTICLE XX**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Jordan Postlewait, Manager of Airports, Parks and Grounds, General Services Department, or successor.

## **ARTICLE XXI**

**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 XXII**

**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 XXIII**

**Venue:** 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 XXIV**

**Title VI Assurances:** During the performance of this contract, the Consultant, for itself, its assignees and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Consultant shall comply with regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated reference and made part of this contract.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations
3. **Solicitations for Subcontractors, Including Procurement of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation, made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports: The Consultant shall provide all information and reports required by the regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the sponsor or Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the sponsor or the FAA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to Consultant under the contract until the Contractor complies and/or
  - b. Cancellation, termination, or suspension of the contract in whole or in part
6. Incorporation of Provisions: The Consultant shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

## **ARTICLE XV**

### **Disadvantage Business Enterprises (DBE) Assurances**

1. Policy: It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this agreement.
2. DBE Obligation: The Consultant agrees to ensure that disadvantaged business enterprises, as defined in CFR 49 Part 23 have the maximum opportunity to participate in the performance of contracts or subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all consultants shall take all necessary and reasonable steps in accordance with CFR 49 Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Consultants shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

**ARTICLE XVI**

**Contract Assurances:** The Department of Transportation ensures that the following clause is in place in every DOT assisted contract and subcontract:

The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of CFR 49 Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

The Department ensures that the following clauses or equivalent will be included in each DOT assisted prime contract:

Satisfactory Performance: The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from the Department. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval from the Department. This clause applies to both DBE and non-DBE subcontractors.

Release of Retainage: The prime contractor agrees to further to release retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval from the Department. This clause applies to both DBE and non-DBE subcontractors.

**ARTICLE XVII**

**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.

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**REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:**

By: Jordan Postlewait Dated: 4/1/08  
Jordan Postlewait, Manager of Airports, Parks and Grounds  
General Services Department

**REQUESTING DEPARTMENT HEAD CONCURRENCE:**

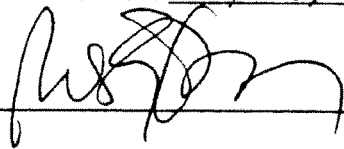
By: [Signature] Dated: 4/1/08  
Name  
George W. Sanders  
Interim Director

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

-- COUNTY OF EL DORADO --

Dated: 2/26/08

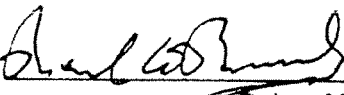
By:   
Chairman  
Board of Supervisors  
"County"

ATTEST:  
Cindy Keck, Clerk  
of the Board of Supervisors

By:  Date: 2/26/08  
Deputy Clerk

-- CONSULTANT --

Dated: 3-21-08

By:   
Reinard W. Brandley  
Individually  
"Consultant"



**Exhibit A  
Schedule of Charges**

Reinard W. Brandley	\$200.00 per hour
Resident Engineer	\$90.00 per hour
Junior Engineer	\$70.00 per hour
Senior Inspector	\$80.00 per hour
Junior Inspector	\$60.00 per hour
Testing Technician	\$60.00 per hour
Per Diem	\$140.00 per day
Vehicle Rental	\$25.00 per day plus \$0.35 per mile
Laboratory Rental	\$200.00 per month
Survey Equipment Rental	\$200.00 per month
In-house Laboratory Test and Mix Designs	Standard Rates
Testing Laboratory Services by Outside Laboratory	Cost plus 10 percent (10%)