

**Nichols Consulting Engineers, Chtd.
Stormwater Program Support Services for Compliance with the
Statewide Trash Amendments**

AGREEMENT FOR SERVICES #287-S1811

THIS AGREEMENT, 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 Nichols Consulting Engineers, Chtd., a Nevada corporation duly qualified to conduct business in the State of California, whose principal place of business is 1885 South Arlington Avenue, Suite 111, Reno, Nevada 89509 and whose mailing address is Post Office Box 1760, Zephyr Cove, Nevada 89448 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a consultant to assist its Community Development Services, Long Range Planning Division with stormwater program support and field mapping technique services to obtain the Track 2 method for compliance with the statewide trash amendments;

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;

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

WHEREAS, County has determined that the provision of such services provided by Consultant are 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 Section 31000;

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

ARTICLE I

Scope of Services: Consultant agrees to furnish personnel, equipment, and program support and field mapping technique services necessary to provide stormwater program support services for the Track 2 method for compliance with the statewide trash amendments. Services shall include, but not be limited to, those tasks as identified in Exhibit A, marked "Scope of Work," incorporated herein and made by reference a part hereof.

Unless otherwise indicated, receipt of this executed Agreement is Consultant's Notice to Proceed with the work specified herein, not including optional task work. No payment will be made for any work performed prior to the effective date of the Agreement.

In addition to the specific services identified in Exhibit A, this Agreement may also include additional scope items or optional tasks. Such optional tasks may supplement, expand, or otherwise modify the Scope of Work or may include, but not be limited to, tasks that are deemed critical by County's Contract Administrator to the furtherance of the Project.

Before proceeding with any work concerning optional tasks under this Agreement, the parties shall identify the specific services to be provided for each assignment. Consultant shall submit the optional work in a written letter format for approval by County's Contract Administrator. County's Contract Administrator will issue a written notice to proceed for any optional work assigned to Consultant.

If a submittal or deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft (MS) Office 2010 applications (specifically, MS Word, MS Project, and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). ArcGIS online shall be used for data collection. All deliverables shall be submitted as requested in language, format, and design that are compatible with and completely transferable to County's computer and that are acceptable to County's Contract Administrator. Newer versions of software may be used and other types of software used for analytical purposes may be authorized if approved in advance of the submittal by County's Contract Administrator. Consultant shall submit all deliverables 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 XV, Default, Termination, and Cancellation, herein.

All of the services included in this Article and Exhibit A, are the responsibility of Consultant, unless specifically described as a task or item of work to be provided by County.

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall expire two (2) years thereafter.

ARTICLE III

Compensation for Services: For services provided herein, including any deliverables that may be identified herein, County agrees to pay Consultant upon the satisfactory completion and County's acceptance of work, in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices and progress reports identifying the services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "Rate Schedule," incorporated herein and made by reference a part hereof.

The total amount of this Agreement shall not exceed \$98,200, inclusive of all costs and expenses.

Other direct costs including special reproductions, delivery charges, and other outside services authorized herein, shall be invoiced at Consultant's cost plus ten (10) percent, for

the services rendered. Any invoices that include other direct costs shall be accompanied by backup documentation to substantiate Consultant's costs for the services being billed on those invoices.

Reimbursement for mileage expenses for Consultant, 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 mileage expenses are incurred. There shall be no markups allowed on mileage rates for Consultant. All travel costs (i.e., overnight lodging, meals, airfare, and other per diem expenses) will not be reimbursed as a direct cost for any services performed under this Agreement by Consultant.

For the purposes of budgeting the Tasks identified in Exhibit A, the maximum allowable billing amounts for each Task are described in Exhibit C, marked "Cost Proposal," incorporated herein and made by reference a part hereof. The amounts indicated in Exhibit C, represent the composition of the total not-to-exceed budget for the various Tasks. In the performance of the scope of services to be provided under this Agreement, Consultant may request to reallocate the expenses listed in Exhibit C, among the various Scope of Work tasks, Optional Tasks, and Other Direct Costs, subject to County's Contract Administrator's prior written approval. In no event shall the total not-to-exceed amount of the Agreement be exceeded.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Consultant shall attach copies of any progress reports required under the provisions of ARTICLE V, Progress Reports, herein, that relate to the services being billed, as backup documentation to any invoices submitted for payment under the terms of this Agreement. 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
Community Development Services
Administration & Finance Division
2850 Fairlane Court
Placerville, California 95667
Attn.: 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 payment for the period of time of the delay, cease all payments until such time as the required deliverables or progress reports are received, or proceed as set forth below in ARTICLE XV, Default, Termination, and Cancellation, herein.

ARTICLE IV

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

ARTICLE V

Progress Reports: Consultant shall submit written progress reports to County's 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 County's 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 seeks to ensure that Consultant's work meets a level of acceptability as determined by County's Contract Administrator, and Consultant shall be required to modify its work as necessary to meet that level of acceptability as defined by County's Contract Administrator. Progress reports shall include the total number of hours worked by Consultant and any authorized subconsultants and shall include descriptions of the tasks and work performed, including a description of any deliverables submitted during the reporting period and the anticipated tasks, work, 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 VI

Ownership of Data: Upon completion or earlier termination of all services under this Agreement, or upon the completion or earlier termination of services provided in accordance with this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos, and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in County without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to County. Copies may be made for Consultant's records, but shall not be furnished to others without written authorization from County's Contract Administrator. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by County. Consultant shall furnish County all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process of the services and deliverables provided under this Agreement.

ARTICLE VII

Consultant's Project Manager: Consultant designates Jason Drew, Principal, 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 and operations including, but not limited to (1) assigning

qualified personnel to perform the required work and to prepare the deliverables required pursuant to this Agreement; and (2) reviewing, monitoring, training and directing Consultant's personnel.

ARTICLE VIII

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 IX

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 the term hereof.

ARTICLE X

Confidentiality: Consultant shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Consultant, and all Consultant's staff, employees, and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Community Development Services, Long Range Planning Division for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

ARTICLE XI

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 XII

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 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 XIII

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given 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 County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE XIV

Audit by California State Auditor: Consultant acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code § 8546.7. In order to facilitate these potential examinations and audits, Consultant shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records, and documentation necessary to demonstrate performance under the Agreement.

ARTICLE XV

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. 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 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 Agreement. 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 XVI

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

To County:

County of El Dorado
Community Development Services
Long Range Planning Division
2850 Fairlane Court
Placerville, California 95667

Attn.: Brendan Ferry
Principal Planner

With a copy to:

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

Attn.: Michele Weimer
Administrative Services Officer
Contracts & Procurement Unit

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Nichols Consulting Engineers, Chtd.
P. O. Box 1760
Zephyr Cove, Nevada 89448

Attn.: Claude Corvino, President

or to such other location as Consultant directs.

ARTICLE XVII

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

ARTICLE XVIII

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 XIX

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 and a \$2,000,000 aggregate limit.
- 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 or professional consultant 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 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 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 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 prior written notice to County; and
 - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Consultant's insurance coverage shall be primary insurance as respects 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 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.

ARTICLE XX

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 XXI

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 XXII

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further

understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XV, Default, Termination, and Cancellation, herein.

ARTICLE XXIII

Nondiscrimination:

- A. County may require Consultant's services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Consultant and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identify, gender expression, sexual orientation, or sex; Consultant shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Consultant and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Consultant shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Consultant's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Sections 12990 and 8355 and Title 2, California Code of Regulations, Section 8103.

ARTICLE XXIV

California Residency (Form 590): If Consultant is a California resident, Consultant must file a State of California Form 590, certifying its California residency or, in the case of a limited liability company or corporation, certifying that it has a permanent place of business in California. Consultant will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Consultant during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

ARTICLE XXV

County Payee Data Record Form: All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

ARTICLE XXVI

Business License: County's Business License Ordinance provides that 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 Ordinance Code Section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

ARTICLE XXVII

Licenses: Consultant hereby represents and warrants that Consultant and any of its subconsultants employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Consultant and its subconsultants to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Consultant and its subconsultants shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

ARTICLE XXVIII

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

ARTICLE XXIX

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Brendan Ferry, Principal Planner, Community Development Services, Planning and Building Department, Long Range Planning Division, or successor.

ARTICLE XXX

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 the obligations set forth herein.

ARTICLE XXXI

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

ARTICLE XXXII

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

ARTICLE XXXIII

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

ARTICLE XXXIV

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

Requesting Contract Administrator Concurrence:

By: Brendan Ferry
Brendan Ferry
Principal Planner
Community Development Services
Planning and Building Department
Long Range Planning Division

Dated: 12-21-2017

Requesting Department Concurrence:

By: Roger Trout
Roger Trout, Director
Community Development Services
Planning and Building Department

Dated: 12-21-17

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.


-- COUNTY OF EL DORADO --

By:  _____

Board of Supervisors
"County"

Dated: 1/9/18

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

By:  _____
Deputy Clerk

Dated: 1/9/18

-- NICHOLS CONSULTING ENGINEERS, CHTD. --

By:  _____

Claude Corvino
President
"Consultant"

Dated: 12/13/17

By:  _____
Debbie Smith
Chief Financial Officer

Dated: 12/13/17

Nichols Consulting Engineers, Chtd.

Exhibit A

Scope of Work

Project Description

Consultant shall provide stormwater program support services for County. County is currently pursuing the Track 2 method for compliance with the statewide trash amendments. County will submit a Track Selection Response Letter to the Central Valley Regional Water Quality Control Board (CVRWQCB). The next steps required for compliance with the statewide trash amendments are to develop an updated Jurisdictional Map of designated Priority Land Use (PLU) map and to develop an Implementation Plan.

Task 1 - Evaluate Parcels and Update PLU Map




Task 1.1 – Refine Priority Land Uses

Consultant shall perform a detailed Geographic Information System (GIS) and field analysis. The objective of this analysis is to identify parcels which are currently noted as PLU's, which through existing information and field assessment, County may be able to determine which parcels can be removed from the preliminary PLU map. County will provide Consultant with a list of parcels and/or edits to the preliminary PLU map to identify areas where: 1) PLUs were identified on the preliminary map based on available zoning information but should be removed as a PLU because either the area was developed differently than it was zoned (e.g., areas zoned for high density residential but developed with less than ten [10] units per acre, industrial areas developed as research and development); or 2) the PLU is a non-jurisdictional area.

Consultant shall review the list and any supporting information provided by County and facilitate a meeting with County staff to discuss potential changes to the preliminary baseline map. The meeting shall include a field visit of the parcels to confirm. County and Consultant will determine the PLU areas that do not meet the definition of a PLU and that are good candidates for removal from the PLU map.

Parcels removed in the updated map that do not meet the definition of a PLU shall require supporting information. Consultant shall prepare draft and final memos to document the changes proposed and the justification for its removal shall be the basis of communicating with the CVRWQCB. Consultant shall provide a draft memo to County for review and comment. Consultant shall obtain County's comments on the draft memo and a final memo shall be produced and shall function as the basis of facilitating a discussion with the CVRWQCB to document their concurrence on the elimination of these areas from the PLU map. Consultant shall document the input and concurrence from the CVRWQCB through a meeting summary to be provided to the CVRWQCB and County for each entity's records. Consultant shall prepare a draft PLU map based on comments received from the CVRWQCB and County.

Deliverables:


-  Draft PLU map in pdf
-  Draft and Final Memo on proposed PLU changes
-  CVRWQCB Meeting Summary

Task 1.2 Identify Low Trash Generating Areas and Alternative Land Uses

Consultant shall work with County to identify PLU areas that are not likely to produce trash. These areas shall be identified based on feedback from County staff that has made initial observations regarding trash generation. County will mark up the Draft PLU map from Task 1.1 and provide it to Consultant for review prior to completing Task 1.3. The Trash Amendment requires that baseline assessments shall be conducted on PLUs, so these areas shall be assessed in Task 1.3. If baseline assessments confirm that no or little trash is being generated in these PLUs, these areas shall be flagged as low trash generating areas and included with Task 4 and shall require annual visual assessments to be conducted to document the continued low trash generation designation.

Consultant shall identify if there are alternative land uses County would substitute for mapped PLU areas. Alternative land uses within the permittee's jurisdiction can be proposed as a substitute for PLU areas if they produce equal or more trash. Consultant shall work with the County to identify if there are alternative land use areas (e.g., fairgrounds and schools). These areas would be identified in a list and/or on a marked-up map. Consultant shall assess trash generation at these locations (up to three [3] potential alternative land use areas) as part of Task 1.3. Consultant shall integrate the results in the Implementation Plan developed in Task 4 herein and shall include a map of the trash generation rates for both the proposed alternative land uses and the PLUs that would be substituted. The advantage of alternative land use areas is it allows County to focus resources committed to trash compliance on those land uses within County which have the most significant trash impact on the storm drain system.

Deliverables:

-  Deliverables are included with Task 4

Task 1.3 – Baseline Assessments

The statewide trash amendments require permittees to conduct visual assessments to establish baseline trash generation rates for all PLU areas (i.e., trash assessment minimum level of effort [TAMLE]). Consultant shall work with County to complete baseline assessments of trash generation rates in the PLU areas that remain after Task 1.1 is completed. Prior to field work, Consultant shall review available literature on anticipated trash generation rates by land use type. Consultant shall estimate the minimum areas that need to be assessed to meet requirements and create a map book of those areas for use in the field. Data collection methods shall be completed by Consultant using either a paper form or ArcGIS online in order to populate trash generation rates in the PLU map. Consultant and County will conduct the assessments using the TAMLE method. It is assumed the baseline assessments will take up to four (4) eight (8) hour days to assess each PLU. Assessments shall be conducted by Consultant at representative locations twice, in accordance with the requirements to establish baseline trash generation rates. The results shall be quality controlled and then input into the PLU map as an attribute to the PLU

layer. Consultant shall submit the map and associated data to County for review. Consultant shall address edits and finalize the trash generation rate data in the PLU map of the Updated Jurisdictional Map developed in Task 4.

Deliverables:

- ❖ Deliverables are included with Task 4

Task 2 – Identify Candidate FTC Locations

Using an iterative process of GIS analysis followed by field investigations, Consultant shall identify candidate locations for siting full trash capture (FTC) devices within the remaining PLUs. This requires overlaying the PLUs with County’s existing storm drain infrastructure and drainage area information. This information shall provide the basis for identifying candidate sites for FTCs. This task shall include Consultant discussion with County to identify any existing full trash capture devices. Areas currently treated by full trash capture shall be removed from further analysis to site new FTC devices.

Consultant’s understanding is that some point or junction storm drain assets have been mapped within County but there may be limited or no connectivity of these assets, within GIS, and the associated drainage basins may have not been delineated. This information shall be needed to site FTCs. Consultant shall utilize readily available topographical data along with the available storm drain GIS mapping to perform a coarse delineation of drainage basins. This is an iterative process with County staff where Consultant shall prepare up to two (2) iterations of the delineations for County review and comment. Each iteration shall be followed by a meeting to review the delineations and refine the boundaries. This information shall provide the basis for identifying candidate sites for FTCs.

Consultant shall identify potentially suitable locations for full trash capture devices. Suitable sites shall be selected based on their ability to coincide or retrofit existing storm drain infrastructure. Consultant shall provide County staff the criteria for FTC and for County staff to identify in GIS any facilities which may meet FTC requirements. Consultant shall consult with County to identify areas where storm drain infrastructure does not exist and where FTCs could not be installed. Consultant shall perform a pilot field review at selected locations to confirm suitable locations to install full trash capture devices (Consultant assumes two [2] staff for one [1] eight [8] hour day). Consultant shall then prioritize locations for installing FTCs based on drainage area.

Consultant shall share a draft map of candidate locations for FTC for County to review and comment. Following concurrence from County, Consultant shall perform a field review to confirm and select priority locations to install a FTC. Following the field work, Consultant shall update the GIS layer to include proposed locations for a FTC based on the drainage area treated and site suitability and provide to County. Consultant shall consider soils, utilities, storm drain facilities, and drainage areas as part of its observations. The final FTC candidate locations shall be included in the updated Jurisdictional Map developed in Task 4.

Deliverables:

- 🗑️ Deliverables are included with Task 4

Task 3 – Identify Functional Equivalence in Non FTC Areas

This task identifies the areas of County (PLU parcels and or PLU contributing drainage areas) which are not candidates for FTC and shall require Full Capture System Equivalency (FE) actions. Consultant shall identify these areas as a layer in GIS and provide to County for review and comment.

Consultant shall meet with County to review the locations and discuss existing actions (at the parcel or County scale) that are ongoing which need to be evaluated for FE. Some of the actions noted by County include:

- Jurisdiction wide – plastic bag ban and styrofoam ban
- Institutional controls – street sweeping, anti-litter campaigns, trash collection, and sidewalk trash bin pick up
- Multi-benefit devices that meet FTC equivalence located on the state Water Board’s website
- Other treatment controls

The results of this meeting shall be a written recommendation from Consultant to County on which ongoing actions meet the FE requirements identified in the Draft and Final Implementation Plan developed in Task 4. Consultant shall work with County to identify by location (PLUs noted as FE areas) actions to occur, what it would include, and how County will demonstrate providing full trash capture equivalence for the following types of FE actions:

- Jurisdiction wide
- Institutional controls
- Multi-benefit devices
- Other treatment controls (retrofit many of existing detention basins)

Deliverables:

- 🗑️ Deliverables are included with Task 4

Task 4 – Updated Baseline Map and Implementation Plan

Consultant shall prepare an updated Jurisdictional Map of designated PLUs (with any parcels meeting the criteria from Task 1.1 removed), existing storm drain network information already provided by County, locations and coverage provided by existing FTC devices and the preliminary proposed locations for new FTC devices. The Draft Jurisdictional Map (Map) shall be provided to County for review and comment. County will provide Consultant one (1) consolidated set of comments on the Draft Map. Consultant shall facilitate a meeting to review the Draft Map and comments in order to prepare the Final Map. The Final Map shall be submitted to County prior to the December 1, 2018 deadline for submittal to the CVRWQCB.

Based on the information and data collected and analyzed in Tasks 1-4 Consultant shall prepare a Draft Implementation Plan (Plan). The Plan shall include mapping, preliminary costs, and an initial schedule for implementation of FTC and FE. The Plan shall identify FE areas on a map and include specific actions which shall be implemented in each of those areas to achieve FE. The Plan shall include a narrative description of the actions and an initial schedule for implementation. If applicable, the Plan shall propose alternative equivalent land uses as identified in Task 1.2. The Draft Plan shall include an appendix on guidance on how to complete visual assessments and a list of questions from County for CVRWQCB consideration. The questions shall focus on concerns or uncertainty County has with the Track 2 method FE process and Consultant shall request clarification from the CVRWQCB. The Draft Plan shall be submitted to County for review and comment. Consultant shall facilitate a meeting with County staff to discuss the Draft Plan and County's comments. Following the meeting, a Final Plan shall be prepared and submitted to County.

Deliverables:

-  Draft and Final Updated Jurisdictional Map in pdf and raw GIS format
-  Draft and Final Implementation Plan in pdf and Microsoft Word format

Task 5 – Optional Tasks

Consultant shall provide support for efforts related to trash compliance but not specifically addressed by the tasks above. Consultant shall perform optional tasks, including but not limited to coordination with the CVRWQCB, presentations or support for presentations given to County management and/or Board of Supervisors, or additional GIS support. In addition, under this task Consultant may provide tracking and updating of the PLU map to update trash generation rates, completed visual assessments, or changes in land use. If updates are required, this optional task assumes up to three (3) updates in the twelve (12) months following completion of Task 4. Work under Optional Tasks shall be authorized with a written Notice to Proceed.

Nichols Consulting Engineers, Chtd.

Exhibit B Rate Schedule

Classification	Hourly Billing Rate
Principal	\$245.00
Associate	\$195.00
Senior	\$170.00
Project	\$140.00
Staff	\$125.00
Senior Construction Manager	\$130.00
Senior Designer	\$135.00
Senior Technician	\$120.00
Construction Inspector	\$120.00
CAD Technician	\$110.00
Senior Field Scientist	\$115.00
Field Scientist	\$95.00
Project Administrator	\$95.00
Field/Engineering Technician	\$95.00
Clerical	\$80.00

Other Direct Cost including but not limited to the following, outside services, equipment rental, communication, and reproduction will be billed at actual cost plus 10%.

Vehicle Mileage will be reimbursed in accordance with ARTICLE III, Compensation for Services, of the Agreement.

Nichols Consulting Engineers, Chtd.

Exhibit C Cost Proposal

Task Description

Task 1 - Evaluate Parcels and Update PLU Map	\$33,637.50
Task 2 - Identify Candidate FTC Locations	\$16,867.50
Task 3 - Identify Functional Equivalent in Non-FTC Areas	\$6,922.50
Task 4 - Updated Baseline Map and Implementation Plan	\$20,377.50
Task 5 - Optional Tasks	\$17,940.00
Other Direct Costs and Mileage	\$2,455.00
Total Proposed Cost Estimate	\$98,200.00

*All expenses and their distribution among Tasks are estimates only. This Exhibit represents the composition of the total not-to-exceed budget for this Agreement. In the performance of the scope of services to be provided in accordance with this cost estimate, Consultant may request to reallocate the expenses listed herein among the various Tasks and Other Direct Costs and Mileage identified herein, subject to County's Contract Administrator's prior written approval. In no event shall the total not-to-exceed amount of the Agreement be exceeded.