

Vali Cooper & Associates, Inc.

SECOND AMENDMENT TO AGREEMENT FOR SERVICES # AGMT 09-52748

THIS SECOND AMENDMENT to that Agreement for Services # AGMT 09-52748 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 Vali Cooper & Associates, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 2000 Powell Street, Suite 550, Emeryville, California 94608, and whose local office address is 1760 Creekside Oaks Drive, Suite 140, Sacramento, California 95833 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, Consultant has been engaged by County to provide construction engineering support services for the U.S. 50/Missouri Flat Road Interchange Improvements – Phase 1B Project for the Community Development Agency pursuant to Agreement for Services # AGMT 09-52748, dated October 13, 2009, as amended, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

WHEREAS, the parties hereto desire to amend the Agreement to transfer funds from subconsultant The Hanna Group to Consultant, amending **ARTICLE III, Compensation for Services**, as amended and adding **Revised Amended Exhibit C**;

WHEREAS, the parties hereto desire to amend the Agreement to update Consultant's Project Manager, amending **ARTICLE IX, Consultant's Project Manager**;

WHEREAS, the parties hereto desire to amend the Agreement to update Consultant's address and one (1) of County's notice recipient, amending **ARTICLE XVIII, Notice to Parties**;

WHEREAS, the parties hereto desire to amend the Agreement to update the Interest of Consultant Article, amending **ARTICLE XXII, Interest of Consultant** and adding **Exhibit K**;

WHEREAS, the parties hereto desire to amend the Agreement to update the following Articles: **ARTICLE XVII, Default, Termination, and Cancellation**; **ARTICLE XLI, Nondiscrimination**; and **ARTICLE XLIII, Debarment and Suspension Certification**; to reflect updated grant funding provisions;

WHEREAS, the parties hereto desire to amend the Agreement to update the Disputes Article, amending **ARTICLE XLV, Disputes**;

WHEREAS, the parties hereto desire to amend the Agreement to add **ARTICLE LIX, Taxes**; **ARTICLE LX, Change of Address**; **ARTICLE LXI, Conflict of Interest**;

ARTICLE LXII, Iran Contracting Act and adding **Exhibit L; ARTICLE LXIII, No Third Party Beneficiaries;** and **ARTICLE LXIV, Counterparts,** to reflect updated County contracting provisions;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Consultant mutually agree to amend the terms of the Agreement in this Second Amendment to Agreement for Services # AGMT 09-52748, as follows:

ARTICLE III, Compensation for Services, the fifth paragraph is amended in its entirety to read as follows:

For the purposes of budgeting the items of work identified in Exhibit A, Base Scope of Work, herein and for budgeting Optional Tasks that may be assigned under this Agreement, the maximum allowable billing amounts for each item of work are described in Revised Amended Exhibit C, marked "Revised Amended Cost Proposal," incorporated herein and made by reference a part hereof. The amounts indicated in Revised Amended Exhibit C represent the composition of the total not-to-exceed budget for the various items of work. In the performance of the scope of services to be provided under this Agreement, Consultant may request to reallocate the expenses listed in Revised Amended Exhibit C among Consultant's own personnel (not including subconsultants) and among the various items of work identified therein, subject to the Contract Administrator's written approval. Consultant may request to reallocate the amounts listed above for its subconsultants among each individual subconsultant's items of work and not between the various subconsultants, subject to County's Contract Administrator's written approval. In no event shall the Base Scope of Work, Prime Costs be exceeded, nor shall the total not-to-exceed amount of the Base Scope, nor shall the amounts identified for subconsultants or Optional Tasks be exceeded, nor shall the total not-to-exceed dollar amount of the Agreement be exceeded.

ARTICLE IX, Consultant's Project Manager, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE IX

Consultant's Project Manager: Consultant designates Keith Flaherty, P.E., Vice President, as its Project Manager for this Agreement. Consultant's Project Manager, or a 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 required work and to prepare the deliverables required by the Agreement; (2) reviewing, monitoring, training and directing Consultant's personnel and any subconsultants authorized herein; and (3) providing qualified and appropriate traffic control services for field work.

ARTICLE XVII, Default, Termination, and Cancellation, new paragraphs E and F are added to read as follows:

- E. Consultant shall comply with the requirements of this Article, regarding administrative, contractual, or legal remedies in instances of default, termination or cancellation and with other terms and conditions of County's grant funding agreements that provide for such sanctions and penalties as may be appropriate in instances where contract terms are violated or breached.
- F. The maximum amount for which County shall be liable if this Agreement is terminated is the not-to-exceed amount of the Task Order or the total amount of this Agreement, as applicable.

ARTICLE XVIII, 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 XVIII

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

To County:

County of El Dorado
Community Development Agency
Transportation Division
2441 Headington Road
Placerville, California 95667

Attn.: John Kahling, P.E.
Deputy Director, Engineering
Headington Engineering Unit

With a copy to:

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

Attn.: Katy Sampson
Assistant Director
Administration and Finance

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Vali Cooper & Associates, Inc.
2000 Powell Street, Suite 550
Emeryville, California 94608

Attn.: John Collings, P.E.
Chief Operating Officer

or to such other location as Consultant directs.

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

Consultant shall disclose any financial, business or other relationship with County that may have an impact upon the outcome of this Agreement or any ensuing County construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement or any ensuing County construction project. Consultant has acknowledged this interest of consultant and Consultant has duly executed Exhibit K, marked "Interest of Consultant Disclosure Statement," incorporated herein and made by reference a part hereof.

ARTICLE XLI, Nondiscrimination, paragraph A is amended in its entirety to read as follows:

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

ARTICLE XLIII, Debarment and Suspension Certification, paragraph A is amended in its entirety and new paragraph C is added to this article to read as follows:

- A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2, Code of Federal Regulations, Parts 180 and 1200, Debarment and Suspension Certificate, which certifies that it or any person associated therewith in the capacity of the owner, partner, director, officer or manager, is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded or

determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted or had a civil judgment rendered against it by a court of competent jurisdiction in any manner involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to County.

- C. Consultant agrees to include this Article without modification in all subcontracts, if any.

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

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

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

ARTICLE LIX

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 LX

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 XVIII, 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 LXI

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 XVII, Default, Termination, and Cancellation, herein.

ARTICLE LXII

Iran Contracting Act Certification: As required by California Public Contract Code Section 2204, for Agreements that are over \$1,000,000, Consultant certifies its status regarding the Iran Contracting Act of 2010 and has duly executed Exhibit L, marked "Iran Contracting Act Certification," incorporated herein and made by reference a part hereof.

ARTICLE LXIII


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 LXIV

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.

Except as herein amended, all other parts and sections of Agreement for Services # AGMT 09-52748 as amended, shall remain unchanged and in full force and effect.

Requesting Contract Administrator Concurrence:

By: 
John Kahling, P.E.
Deputy Director, Engineering
Headington Engineering Unit
Transportation Division
Community Development Agency

Dated: 07/11/14

Requesting Division Concurrence:

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

Dated: 7/14/14

Requesting Department Concurrence:

By: 
Steven M. Pedretti, Director
Community Development Agency

Dated: 7/14/14

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement for Services # AGMT 09-52748 on the dates indicated below.

-- COUNTY OF EL DORADO --

By: _____

Dated: _____

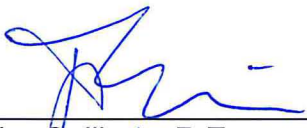

Board of Supervisors
"County"

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

By: _____
Deputy Clerk

Dated: _____

-- VALI COOPER & ASSOCIATES, INC. --

By:  _____
John Collings, P.E.
Chief Operating Officer
"Consultant" 

Dated: 7-22-14

By:  _____
Marian Ross
Chief Financial Officer

Dated: 7/22/2014

Vali Cooper & Associates, Inc.

Revised Amended Exhibit C

Revised Amended Cost Proposal*

Base Scope of Work

Vali Cooper & Associates, Inc.

Item of Work A.	Pre-Construction Services	\$	50,000.00
Item of Work B.	Construction Inspection	\$	1,170,000.00
Item of Work C.	Construction Administration	\$	1,418,052.00
Item of Work D.	Construction Engineering	\$	100,918.00
Item of Work E.	Water Pollution Control	\$	19,182.00
Item of Work F.	Biological Surveys - to be performed by subconsultant LSA	\$	-
Item of Work G.	Claims Analysis	\$	30,600.00
Item of Work H.	Project Closeout	\$	122,976.03
	Labor Total	\$	2,911,728.03
	Other Direct Costs	\$	1,423.97
	Total Prime Costs	\$	2,913,152.00

Subconsultants:

The Hanna Group

Items of Work A, B, C, & D \$ 16,848.00

LSA Associates, Inc.

Items of Work A, B, C, E & F \$ 10,000.00

Total Proposed Base Scope Cost Estimate \$ 2,940,000.00

Optional Tasks

Optional Tasks \$ 95,000.00

Total Proposed Budget Cost Estimate \$ 3,035,000.00

*All expenses and their distribution among Items of Work 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 budget, Consultant may request to reallocate the expenses listed herein among Consultant's personnel (not including subconsultants) and among the various items of work identified herein, subject to the Contract Administrator's written approval. Consultant may request to reallocate the amounts listed above for its subconsultants among each individual subconsultant's items of work and not between the various subconsultants, subject to the Contract Administrator's written approval. In no event shall the total amount of the Prime Costs (\$2,913,152) be exceeded, nor shall the total not-to-exceed amount of the Base Scope (\$2,940,000), the not-to-exceed amounts identified for subconsultants (\$26,848) or for Optional Tasks (\$95,000), nor the total not-to-exceed amount of the Agreement (\$3,035,000) be exceeded.

Exhibit K


INTEREST OF CONSULTANT DISCLOSURE STATEMENT

Disclosure of Conflicts

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

Certification

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



Signature

Name

Title

Company Name

Date

Vali Cooper & Associates, Inc.

Exhibit L

IRAN CONTRACTING ACT CERTIFICATION

(Public Contract Code Section 2200 *et seq.*)


As required by California Public Contract Code Section 2204, I certify subject to penalty for perjury that: (i) I am duly authorized to execute this certification on behalf of Consultant; and (ii) the option checked below relating to Consultant's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

Consultant is not:

(i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or

(ii) a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.

County has exempted Consultant from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, County will be unable to obtain the goods and/or services to be provided pursuant to the Agreement.

Signed 
Titled CFD Marianne Ross
Firm Vali Cooper & Associates, Inc.
Date 7/22/2014

Note: In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Agreement amount, termination of the Agreement and/or ineligibility to bid on public contracts for three (3) years.