

ORIGINAL

Dudek On-Call Planning Services

AGREEMENT FOR SERVICES #3802

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 Dudek, a corporation duly qualified to conduct business in the State of California, whose principal place of business is 605 Third Street, Encinitas, California 92024, and whose local office address is 1102 R Street, Sacramento, California 95811 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a consultant to provide planning services for County on an as-needed basis;

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 authorized by El Dorado County Charter, Section 210(b)(6), El Dorado County Code section 3.13.030, and/or Government Code Section 31000;

WHEREAS, on February 28, 2017, Consultant was formally awarded Request for Qualification (RFQ) 17-918-020 for the provision of Planning Services;

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

ARTICLE I

Scope of Services:

Consultant agrees to furnish personnel, subconsultants, materials, equipment, and services necessary to perform various planning services. 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, or as identified in the individual Task Orders and/or Work Orders, if any, issued pursuant to this Agreement.

The specific services for each assignment shall be determined at a meeting or telephone conference between Consultant and County Contract Administrator, or designee, to discuss the needs, applicable standards, required deliverables, specific Consultant staff, subconsultants, if applicable, any permits, and any task-related mileage budget, if applicable, on a task-by-task basis. Within an agreed timeframe as determined by County Contract Administrator, following the meeting or telephone conference, Consultant shall provide County Contract Administrator with a written scope of work, a schedule including a list of tasks or items of work with completion dates, a target completion date for the overall scope of work, and a not-to-exceed cost itemization to complete the work (resulting in a Task Order or Work Order, as applicable), which shall require written approval, authorization, and written notification to proceed from County Contract Administrator, prior to commencement of the work. No payment will be made for any work performed prior to the approval and full execution of each Task Order or Work Order, as applicable, and no payment will be made for amounts in excess of the not-to-exceed amount of each Task Order and/or Work Order.

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

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

If a submittal or Task Order and/or Work Order deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft (MS) Office 2010 applications (specifically, MS Word and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). All deliverables shall be submitted in language, format, and design that are compatible with and completely transferable to County computer and engineering applications and that are acceptable to County Contract Administrator. Newer versions of software may be used and other types of software used for analytical purposes may be authorized if approved in writing in advance of the submittal by County Contract Administrator. Consultant shall submit all deliverables to County's Contract Administrator as described in the individual Task Orders and/or Work Orders issued pursuant to this Agreement. Failure to submit the required deliverables in the formats required shall be grounds for termination of the Agreement, as provided in ARTICLE XIII, 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: This Agreement shall become effective upon final execution by both parties hereto and shall expire three (3) years thereafter.

ARTICLE III

Compensation for Services: For services provided herein, including all of the deliverables described in the individual Task Orders and/or Work Orders, issued pursuant to this Agreement, and including the Progress Reports required by ARTICLE V, Progress Reports, below, County agrees to pay Consultant monthly in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices detailing 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 rates listed in Exhibit B may be adjusted annually with thirty (30) days prior written notice from Consultant and prior written approval by County's Contract Administrator. The rate increase shall not exceed three percent (3%) annually. Any rate increases authorized by County's Contract Administrator shall not increase the total not-to-exceed amount of the Agreement. In no event shall the total not-to-exceed amount of the Agreement be exceeded.

Reimbursement for mileage expenses for Consultant and subconsultants, 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. Mileage reimbursement rates shall apply to Consultant and to any subconsultants authorized under this Agreement. There shall be no markup on any mileage rates for Consultant or for any subconsultants. Any reimbursements for mileage expenses will only be made if such expenses are included in the budget of an approved and fully executed Task Order and/or Work Order, if any, issued pursuant to this Agreement.

Travel costs (i.e., overnight lodging, meals, parking, airfare, bridge tolls and other per diem expenses) will not be reimbursed as a direct cost for any services performed under this Agreement by Consultant or by any authorized subconsultants.

Other direct costs, including subconsultants' services authorized herein, shall be invoiced at Consultant cost, without markup, for the services rendered. Any invoices that include other direct costs or subconsultant costs shall be accompanied by backup documentation to substantiate Consultant costs for the services being billed on those invoices.

The total amount of this Agreement shall not exceed \$150,000, inclusive of all Task Orders and/or Work Orders, costs, and expenses.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number, the County-supplied Task Order or Work Order number on their faces. Consultant shall bill County for only one (1) Task Order or Work Order per invoice. 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 charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado
Administration and 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 XIII, 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: Upon issuance of a Task Order or Work Order, Consultant shall submit written Progress Reports to County Contract Administrator at intervals that are commensurate with the requirements of the tasks and items of work being performed and based upon a mutually agreeable schedule. At a minimum, Consultant shall submit written Progress Reports once per month. The reports shall be sufficiently detailed for County 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 issues encountered so that remedies can be developed. Separate detail shall be provided for each Task Order or Work Order issued. 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

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 responsibilities to County during the term hereof.

ARTICLE VIII

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 Planning and Building Department 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 IX

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 X

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 XI

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 and/or any Task Order or Work Order issued pursuant to this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE XII

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 XIII

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, 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 immediately 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 Task Order or Work Order issued pursuant to 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 or Task Order or Work Order issued pursuant to this 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 XIV

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
Planning and Building Department
2850 Fairlane Court
Placerville, California 95667

Attn.: Rommel Pabalinas
Principal Planner

With a copy to:

County of El Dorado
Chief Administrative Office
2850 Fairlane Court
Placerville, California 95667

Attn.: Michele Weimer
Procurement and Contracts Manager

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Dudek
605 Third Street
Encinitas, California 92024

Attn.: Frank Dudek, Chairman/CEO

or to such other location as Consultant directs.

ARTICLE XV

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 XIV, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County 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 XVI

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

ARTICLE XVII

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 in respect to 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 in respect to 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 XVIII

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 XIX

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 XX

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 XIII, Default, Termination, and Cancellation, herein.

ARTICLE XXI

Nondiscrimination:

- A. County may require Consultant 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 identity, 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 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 XXII

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 percent (7%) of each payment made to Consultant during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

ARTICLE XXIII

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 XXIV

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 XXV

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 XXVI

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 individual Task Orders and/or Work Orders issued pursuant to 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 prior 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 XXVII

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 XXVIII

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Rommel Pabalinas, Principal Planner, Planning and Building Department, or successor.

ARTICLE XXIX

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 XXX

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 XXXI

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 XXXII

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 XXXIII

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: 

Rommel Pabalinas
Principal Planner
Planning and Building Department

Dated: 4/30/19

Requesting Department Concurrence:

By: 

Tiffany Schmid
Director
Planning and Building Department

Dated: 04/30/19

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

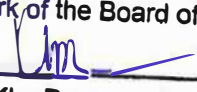
-- COUNTY OF EL DORADO --

By: 

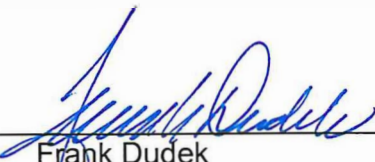
Dated: April 2019

~~Purchasing Agent~~ Board of Supervisors
~~Chief Administrative Officer~~ County
"County"

ATTEST: James S. Mitrissin
Clerk of the Board of Supervisors

By: 
Kim Dawson, Sr. Deputy Clerk

-- DUDEK --

By: 
Frank Dudek
Chairman/CEO
"Consultant"

Dated: APR. 24, 2019

By: 
Emily Hart
~~Executive Secretary~~
Asst.

Dated: APRIL 24, 2019

Dudek

Exhibit A

Scope of Work

Consultant services may include specific tasks associated with On-Call Planning Services, such as:

- Process applications for discretionary entitlements, tentative maps, rezoning, conditional use permits, and variances
- Public meeting facilitation for community meetings, workshops, and hearings in support of discretionary entitlements
- Prepare application intake and reporting services
- Conduct consultation with other County departments as needed
- Conduct preliminary project and application review
- Provide and prepare formal application review and evaluation for completeness
- Conduct analysis of zoning, General Plan, and Specific Plans
- Conduct site visits and applicant meetings
- Develop and prepare staff reports for the Planning Commission and the Board of Supervisors, as required
- Provide environmental review determination if projects qualify for exemption under the California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA). Prepare initial study leading to the preparation and circulation of Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report
- Develop and prepare technical studies to support the environmental review process, such as: studies for aesthetics (including visual simulations), air quality (including health risk assessments), greenhouse gas emissions, hazardous materials, (Phase 1 assessments), hydrology/water quality, land use/community impact, noise, traffic, paleontology, public utilities/services and wildfire.
- Provide public outreach and Mitigation Monitoring
- Provide fiscal analysis, fiscal impact studies (FIA), market studies and public facilities financing plans (PFFP)

- Provide engagement and management of technical consultants for specific tasks or reports
- Provide presentations and/or assistance to County staff with project presentations to the Planning Commission and/or Board of Supervisors
- Conduct scoping, outreach, or public information meetings with County staff
- Provide and conduct other specialty services such as: telecommunications reviews, cannabis regulation and application review, housing and community development, vacation home rental review, grant assistance and public outreach
- Provide counter services such as: in-office planner to cover front counter and telephones during regular business hours at the Planning Department

Deliverables and schedules shall be included in the individual written and approved Task Order or Work Order for the project.

Dudek

Exhibit B

Rate Schedule

Engineering Services

Project Director	\$285 - \$314
Principal Engineer III	\$265 - \$290
Principal Engineer II	\$255 - \$280
Principal Engineer I	\$245 - \$270
Program Manager	\$225 - \$248
Senior Project Manager	\$225 - \$248
Project Manager	\$220 - \$242
Senior Engineer III	\$215 - \$237
Senior Engineer II	\$205 - \$226
Senior Engineer I	\$195 - \$215
Project Engineer IV/Technician IV	\$185 - \$204
Project Engineer III/Technician III	\$175 - \$193
Project Engineer II/Technician II	\$160 - \$176
Project Engineer I/Technician I	\$145 - \$160
Project Coordinator	\$115 - \$127
Engineering Assistant	\$110 - \$121

Environmental Services

Project Director	\$245 - \$270
Senior Specialist IV	\$230 - \$253
Senior Specialist III	\$220 - \$242
Senior Specialist II	\$200 - \$220
Senior Specialist I	\$190 - \$209
Specialist V	\$180 - \$198
Specialist IV	\$170 - \$187
Specialist III	\$160 - \$176
Specialist II	\$145 - \$160
Specialist I	\$130 - \$143
Analyst V	\$120 - \$132
Analyst IV	\$110 - \$122
Analyst III	\$100 - \$110
Analyst II	\$90 - \$100
Analyst I	\$80 - \$88
Technician IV	\$90 - \$100
Technician III	\$80 - \$88
Technician II	\$70 - \$77
Technician I	\$60 - \$66
Compliance Monitor	\$95 - \$105

Data Management Services

GIS Programmer I	\$185 - \$204
GIS Specialist IV	\$160 - \$176
GIS Specialist III	\$150 - \$165
GIS Specialist II	\$140 - \$150
GIS Specialist I	\$130 - \$140
Data Analyst III	\$100 - \$110
Data Analyst II	\$90 - \$100
Data Analyst I	\$80 - \$88
UAS Pilot	\$100 - \$110

Construction Management Services

Principal/Manager	\$195 - \$215
Senior Construction Manager	\$180 - \$198
Senior Project Manager	\$165 - \$182
Construction Manager	\$155 - \$171
Project Manager	\$145 - \$160
Resident Engineer	\$145 - \$160
Construction Engineer	\$140 - \$154
On-site Owner's Representative	\$140 - \$154
Construction Inspector III	\$130 - \$143
Construction Inspector II	\$120 - \$132
Construction Inspector I	\$110 - \$121
Prevailing Wage Inspector	\$135 - \$149

Hydrogeological Services

Project Director	\$285 - \$314
Principal Hydrogeologist/Engineer II	\$260 - \$286
Principal Hydrogeologist/Engineer I	\$240 - \$264
Sr. Hydrogeologist IV/Engineer IV	\$225 - \$248
Sr. Hydrogeologist III/Engineer III	\$210 - \$231
Sr. Hydrogeologist II/Engineer II	\$195 - \$215
Sr. Hydrogeologist I/Engineer I	\$185 - \$204
Hydrogeologist VI/Engineer VI	\$165 - \$182
Hydrogeologist V/Engineer V	\$155 - \$171
Hydrogeologist IV/Engineer IV	\$145 - \$160
Hydrogeologist III/Engineer III	\$135 - \$149
Hydrogeologist II/Engineer II	\$125 - \$138
Hydrogeologist I/Engineer I	\$115 - \$127
Technician	\$100 - \$110

District Management & Operations

District General Manager	\$195 - \$215
District Engineer	\$185 - \$204
Operations Manager	\$160 - \$176
District Secretary/Accountant	\$120 - \$132
Collections System Manager	\$135 - \$149
Grade V Operator	\$125 - \$138
Grade IV Operator	\$110 - \$121
Grade III Operator	\$100 - \$110
Grade II Operator	\$75 - \$83
Grade I Operator	\$70 - \$77
Operator in Training	\$65 - \$72
Collection Maintenance Worker II	\$75 - \$83
Collection Maintenance Worker I	\$65 - \$72

Office Services*Technical/Drafting/CADD Services*

3D Graphic Artist	\$175 - \$193
Senior Designer	\$165 - \$182
Designer	\$155 - \$171
Assistant Designer	\$150 - \$165
CADD Operator III	\$145 - \$160
CADD Operator II	\$140 - \$154
CADD Operator I	\$125 - \$138
CADD Drafter	\$115 - \$127
CADD Technician	\$110 - \$121

Support Services

Technical Editor III	\$145 - \$160
Technical Editor II	\$130 - \$143
Technical Editor I	\$115 - \$127
Publications Specialist III	\$105 - \$116
Publications Specialist II	\$95 - \$105
Publications Specialist I	\$85 - \$94
Clerical Administration	\$90 - \$100

Forensic Engineering – Court appearances, depositions, and interrogatories as expert witness will be billed at 2.00 times normal rates.

Emergency and Holidays – Minimum charge of two hours will be billed at 1.75 times the normal rate.

Material and Outside Services – Subcontractors, rental of special equipment, special reproductions and blueprinting, outside data processing and computer services, are charged at 1.15 times the direct cost.

Mileage Expenses – Mileage will be reimbursed in accordance with ARTICLE III, Compensation for Services.

Annual Increases – The rates listed above may be adjusted with thirty (30) days prior written notice from Consultant and prior written approval by County's Contract Administrator. The rate increase shall not exceed three percent (3%) annually. Any rate increases authorized by County's Contract Administrator shall not increase the total not-to-exceed amount of the Agreement. In no event shall the total not-to-exceed amount of the Agreement be exceeded.

ORIGINAL

Dudek

FIRST AMENDMENT TO AGREEMENT FOR SERVICES #3802

THIS FIRST AMENDMENT to that Agreement for Services #3802 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 Dudek, a corporation duly qualified to conduct business in the State of California, whose principal place of business is 605 Third Street, Encinitas, California 92024, and whose local office address is 1102 R Street, Sacramento, California 95811 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a consultant to assist its Planning and Building Department, in planning services on an as-needed basis, pursuant to Agreement for Services #3802, dated June 25, 2019, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

WHEREAS, the parties hereto desire to amend the Agreement to extend the expiration date for three (3) additional years, to June 24, 2025, amending **ARTICLE II, Term**;

WHEREAS, the parties hereto desire to amend the Agreement to increase the not-to-exceed compensation amount of the Agreement by \$250,000, for a total not-to-exceed amount of \$400,000, amending **ARTICLE III, Compensation for Services**;

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 on the following terms and conditions:

- I. **ARTICLE II, Term**, of the Agreement is amended in its entirety to read as follows:

This agreement shall become effective upon final execution by both parties hereto and shall expire June 24, 2025.

- II. **ARTICLE III, Compensation**, the sixth paragraph of the Article is amended in its entirety to read as follows:

The total amount of this Agreement, as amended, shall not exceed \$400,000, inclusive of all Task Orders and/or Work Orders, costs, taxes, and expenses.

Except as herein amended, all other parts and sections of Agreement for Services #3802, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement for Services #3802 on the dates indicated below.


-- COUNTY OF EL DORADO --

By: 

Dated: 10/20/2020

Board of Supervisors
"County"

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: 
Deputy Clerk

Dated: 10/20/2020

-- DUDEK --

By: 
Joseph Monaco
President/CEO
"Consultant"

Dated: 9/8/2020

By: Christine Moore
Christine Moore
Chief Financial Officer

Dated: 9/4/2020

Dudek

SECOND AMENDMENT TO AGREEMENT FOR SERVICES #3802

THIS SECOND AMENDMENT to that Agreement for Services #3802 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 Dudek, a corporation duly qualified to conduct business in the State of California, whose principal place of business is 605 Third Street, Encinitas, California 92024, and whose local office address is 1102 R Street, Sacramento, California 95811 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, Consultant has been engaged by County to assist its Planning and Building Department by providing on-call planning services, pursuant to Agreement for Services #3802, dated June 25, 2019, and First Amendment to Agreement for Services #3802, dated October 20, 2020, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

WHEREAS, the parties hereto desire to amend the Agreement to increase the not-to-exceed compensation amount of the Agreement by \$400,000, for a total not-to-exceed amount of \$800,000, and revise County's invoice recipient, amending **ARTICLE III, Compensation for Services**;

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

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

WHEREAS, the parties hereto desire to fully-replace specific Articles and add new Articles to include updated contract provisions and memorialize the independent contractor relationship created through this agreement;

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 on the following terms and conditions:

- I. **ARTICLE III, Compensation for Services**, the sixth and seventh paragraphs of the Article are amended in their entirety to read as follows:

The total amount of this Agreement, as amended, shall not exceed \$800,000, inclusive of all expenses, costs, taxes, Task Orders and amended Task Orders, Work Orders and amended Work Orders, and all work of subconsultants, if any are authorized. It is understood and agreed that there is no guarantee that this amount will be authorized under this Agreement through Task Orders or Work Orders.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number, the County-supplied Task Order or Work Order number on their faces. Consultant shall bill County for only one (1) Task Order or Work Order per invoice. 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 charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado
Planning and Building Department
2850 Fairlane Court
Placerville, California 95667

Attn.: Kevin Willard
Administrative Technician

or to such other location as County directs.

- II. **ARTICLE XIV, Notice to Parties**, of the Agreement is amended in its entirety to read as follows:

ARTICLE XIV

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
Planning and Building Department
2850 Fairlane Court
Placerville, California 95667

Attn.: Rommel Pabalinas
Planning Manager

With a copy to:

County of El Dorado
Chief Administrative Office
330 Fair Lane
Placerville, California 95667

Attn.: Michele Weimer
Procurement and Contracts
Manager

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Dudek
605 Third Street
Encinitas, California 92024
Attn.: Joseph Monaco, Chief Executive Officer

or to such other location as Consultant directs.

- III. **ARTICLE XXVIII, Contract Administrator**, of the Agreement is amended in its entirety to read as follows:

ARTICLE XXVIII

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Rommel Pabalinas, Planning Manager, Planning and Building Department, or successor.

- IV. **The following Articles of the Agreement are fully-replaced in their entirety to read as follows:**

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 understood that this Agreement does not create an exclusive relationship between County and Consultant, and Consultant may perform similar work or services for others. However, Consultant shall not enter into any agreement with any other party, or provide any information in any manner to any other party, that would conflict with Consultant's responsibilities or hinder Consultant's performance of services hereunder, unless County's Contract Administrator, in writing, authorizes that agreement or sharing of information.

ARTICLE X

Independent Contractor: The parties intend that an independent consultant relationship will be created by this contract. 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, agents, affiliates, and subconsultants, if any are authorized herein, as they relate to the services or work to be performed under this Agreement during the course and scope of their employment by Consultant. Those persons will be entirely and exclusively under the direction, supervision, and control of Consultant.

County may designate the tasks to be performed and the results to be accomplished under this Agreement, provide information concerning the work or services, approve or disapprove the final work product and/or services provided, and set deadlines for the completion of the work or services, but County will not control or direct the manner, means, methods, or sequence in which Consultant

performs the work or services for accomplishing the results. Consultant understands and agrees that Consultant lacks the authority to bind County or incur any obligations on behalf of County.

Consultant, including any subconsultant or employees of Consultant, shall not receive, nor be eligible for, any benefits County provides for its employees, including, but not limited to, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans. Consultant shall not receive, nor be eligible for, workers' compensation, including medical and indemnity payments. County is not responsible for withholding, and shall not withhold, Federal Income Contribution Act amounts or taxes of any kind from any payments which it owes Consultant. Consultant shall not be subject to the work schedules or vacation periods that apply to County employees.

Consultant shall be solely responsible for paying its employees, and for withholding Federal Income Contribution Act amounts and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, or any other benefit that Consultant provides for its employees.

Consultant acknowledges that it has no authority to bind the County or incur any obligations on behalf of the County with regard to any matter, and shall not make any agreements or representations on the County's behalf.

ARTICLE XIII

Default, Termination, and Cancellation:

- A. Termination by Default: If either party becomes aware of an event of default, that party shall give written notice of said default to the party in default that shall state the following:
1. The alleged default and the applicable Agreement provision.
 2. That the party in default has ten (10) days upon receiving the notice to cure the default (Time to Cure).

If the party in default does not cure the default within ten (10) days of the Time to Cure, then such party shall be in default and the party giving notice may terminate the Agreement by issuing a Notice of Termination. The party giving notice may extend the Time to Cure at their discretion. 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.

1. If County terminates this Agreement, in whole or in part, for default: County reserves the right to procure the goods or services, or both, similar to those terminated, from other sources and Consultant shall be liable to County for any excess costs for those goods or

services. County may deduct from any payment due, or that may thereafter become due to Consultant, the excess costs to procure from an alternate source.

2. County shall pay Consultant the sum due to Consultant under this Agreement prior to termination, unless the cost of completion to County exceeds the funds remaining in the Agreement. In which case the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.
3. County may require Consultant to transfer title and deliver to County any completed work under the Agreement.

The following shall be events of default under this Agreement:

1. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Agreement.
 2. A representation or warranty made by Consultant in this Agreement proves to have been false or misleading in any respect.
 3. Consultant fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, unless County agrees, in writing, to an extension of the time to perform before that time period expires.
 4. A violation of ARTICLE XX, Conflict of Interest.
- B. Bankruptcy: County may terminate this Agreement immediately in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement immediately 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 or Work Order issued pursuant to this Agreement, in whole or in part, for convenience upon thirty (30) calendar days' written Notice of Termination. If such termination is effected, County will pay for satisfactory services rendered before the effective date of termination, as set forth in the Notice of Termination provided to Consultant, and for any other services that County agrees, in writing, to be necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of any Task Order or Work Order, or the total amount of the Agreement, 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.

ARTICLE XVI

Indemnity: To the fullest extent permitted by law, Consultant shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including reasonable attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the negligent acts or omissions of Consultant or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the negligence or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XX

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and the Political Reform Act of 1974 (Section 87100 et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Consultant and performing work for County and who are considered to be a "consultant" within the meaning of Title 2, California Code of Regulations, Section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code. County's Contract Administrator shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are considered to be a "consultant" within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Consultant covenants that during the term of this Agreement neither it, or any officer or employee of Consultant, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
3. Any officer or employee of County that are involved in this Agreement.

If Consultant becomes aware of a conflict of interest related to this Agreement, Consultant shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by

giving written notice of termination specified in ARTICLE XIII, Default, Termination, and Cancellation.

ARTICLE XXI

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 identity, 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 11000 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Subchapter 5 of Chapter 5 of Division 4.1 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 Title 2, California Code of Regulations, Section 11102.

V. The following Articles of the Agreement are added to read as follows:

ARTICLE XXXIV

Force Majeure: Neither party will be liable for any delay, failure to perform, or omission under this Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control.
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Agreement.

For purposes of this Article, "cause that is beyond its control" includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

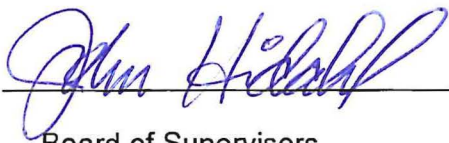
ARTICLE XXXV

Waiver: No failure on the part of the parties to exercise any rights under this Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

Except as herein amended, all other parts and sections of Agreement for Services #3802 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement for Services #3802 on the dates indicated below.

-- COUNTY OF EL DORADO --

By: 
Board of Supervisors
"County"


Dated: 12-7-21

Attest:
Kim Dawson
Clerk of the Board of Supervisors


By: 
Deputy Clerk

Dated: 12-7-21

-- DUDEK --

By: 
Joseph Monaco
Chief Executive Officer
"Consultant"

Dated: 10/13/2021

By: 
Christine Moore (Oct 13, 2021 10:19 PDT)
Christine Moore
Chief Financial Officer

Dated: 10/13/2021