

DKS Associates

On-Call Traffic Engineering and Transportation Planning Services

AGREEMENT FOR SERVICES #402-S1611

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 DKS Associates, a corporation duly qualified to conduct business in the State of California, whose principal place of business is 1970 Broadway, Suite 740, Oakland, California 94612 and whose local office address is 8950 Cal Center Drive, Suite 340, Sacramento, California 95826 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a consultant to assist its Community Development Agency with traffic engineering and transportation planning services;

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 federal, 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, subconsultants, equipment, and services necessary to provide on-call traffic engineering and transportation planning services in support of County's General Plan. Services shall include, but not be limited to, those tasks as identified in Exhibit A, marked "Scope of Work," and to be completed in accordance with Exhibit B, marked "Rate Schedule," both exhibits incorporated herein and made by reference a part hereof, or as identified in the individual Task Orders or Work Orders, as applicable, to be issued in accordance with this Agreement.

Before proceeding with any work under this Agreement, the parties will identify the specific services to be provided for each assignment in individual Task Orders or Work Orders to be issued in accordance with this Agreement.

The specific services for each assignment shall be determined at a meeting or telephone conference between Consultant and County's Contract Administrator, or designee, to discuss the needs, applicable standards, required deliverables, specific Consultant staff, subconsultants, if applicable, any necessary permits, and any task-related mileage budget, if applicable, on a task-by-task basis. Within an agreed timeframe as determined by County's Contract Administrator, following the meeting or telephone conference, Consultant shall provide County's Contract Administrator with a written scope of work, a schedule including a list of tasks 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 a Work Order, as applicable), which shall require written approval, authorization, and written notification to proceed from County's Contract Administrator, prior to commencement of the work.

County's Contract Administrator will issue a written Task Order for work assignments where the not-to-exceed cost itemization is greater than \$10,000. County's Contract Administrator will issue a written Work Order for any work assignments where the not-to-exceed cost itemization is \$10,000 or less.

Funding from various local, state and federal sources may be utilized to fund certain assignments to be performed under this Agreement and, as a consequence, the requirements (other than those incorporated herein below) of the funding agencies related to those grants will be incorporated into the provisions of the specific Task Orders or Work Orders issued for those assignments.

No payment will be made for any work performed prior to approval and full execution of the Task Order or Work Order, as applicable, and no payment will be made for amounts in excess of the not-to-exceed amount of the Task Order or Work Order.

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

The period of performance for Task Orders and Work Orders shall be in accordance with dates specified in each Task Order or Work Order. No payment will be made for any work performed before or after the period of performance in the Task Order or Work Order, unless County's Contract Administrator and Consultant amend the Task Order or Work Order. No Task Order or Work Order will be written which exceeds the cumulative total of the not-to-exceed dollar amount of this Agreement.

County shall review Consultant's progress at key points as specified in each Task Order or Work Order. Milestone reviews shall be performed for the specific products and

deliverables listed in each Task Order and/or Work Order. Milestones may only be changed by written agreement (may consist of an email) between County's Contract Administrator, or designee, and Consultant.

If a submittal or Task Order 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, MS Project and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). Electronic AutoCAD 2010 or AutoCAD Civil 3D 2010 format shall be used for submittal of plans or other similar documents as specified by County's Contract Administrator. All deliverables shall be submitted in language, format and design that are compatible with and completely transferable to County's computer and 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 in accordance with completion time schedules identified in the individual Task Orders or Work Orders issued pursuant to this Agreement. Failure to submit the required deliverables in the format required shall be grounds for termination of the Agreement, as provided in ARTICLE XVII, 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. 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 on March 25, 2016, and shall expire March 24, 2019.

ARTICLE III

Compensation for Services: For services provided herein, including all of the deliverables described in individual Task Orders and Work Orders issued pursuant to this Agreement, and including the progress reports required by ARTICLE VI, 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 services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit B. The billing rates specified in the Task Order or Work Order shall include direct salary cost, employee benefits, overhead and fee, as applicable. The rates listed in Exhibit B may be adjusted annually upon the expiration of the date range listed herein with thirty (30) days advanced written notice from Consultant and written approval by County's Contract Administrator. The rate increase shall not exceed four percent (4%) annually. Any rate increases authorized by County's Contract Administrator shall not increase the total not-to-exceed amount of the Agreement.

Other direct costs including special reproductions, delivery charges, and other outside services authorized herein, shall be invoiced at Consultant's cost, 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. If applicable, subconsultant services and expenses shall be billed at actual cost.

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. Mileage reimbursement rates apply to Consultant and to any subconsultants authorized under this Agreement. There shall be no markups allowed on mileage rates for Consultant or for any subconsultant. 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 or Work Order 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. The total amount payable by County for an individual Task Order or Work Order shall not exceed the amount agreed to in the Task Order or Work Order, unless County's Contract Administrator and Consultant amend the Task Order or Work Order.

The total amount of this Agreement, inclusive of all costs, Task Orders and Work Orders, and inclusive of all work of subconsultants and expenses shall not exceed \$150,000. 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, and shall include the beginning and ending dates of the overall period of service for the invoice 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 VI, 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 Agency
Long Range Planning Division
2850 Fairlane Court
Placerville, California 95667
Attn.: Cindy Johnson
Administrative Technician

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 XVII, 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

Standards for Work: Services rendered under this Agreement shall be performed in accordance with and full compliance with the 2004 El Dorado County General Plan, Highway Capacity Manual (Transportation Research Board, 2010), the Trip Generation Manual 9th Edition (Institute of Traffic Engineers), and all other applicable Caltrans, Federal Highway Administration (FHWA), federal, state and local laws, County guidelines and accepted industry standards, and shall be performed in a safe, professional, skillful and workmanlike manner.

ARTICLE VI

Progress Reports: Upon issuance of a Task Order or Work Order, 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 will 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. Separate detail shall be provided for each ongoing Task Order or Work Order. 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 VII

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 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 VIII

Consultant's Project Manager: Consultant designates John P. Long, 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, 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 individual Task Orders and Work Orders issued pursuant to this 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 IX

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Amendments may be made to permit mutually acceptable changes in the scope, character or complexity of the work if such changes become desirable or necessary as the work progresses. Appropriate extensions of time in case of unavoidable delays and for consideration of warranted adjustments in payment may also be accomplished by amendments to the Agreement. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto. There shall be no change in Consultant's Project Manager or subconsultants, which shall be established at the issuance of individual Task Orders and Work Orders, without prior written approval by County's Contract Administrator.

ARTICLE X

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 XI

Confidentiality: Consultant and any subconsultants authorized under this Agreement 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 Agency 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 XII

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. County may, at its sole discretion, through its Contract Administrator, authorize Consultant to utilize subconsultants for services performed in Exhibit A for the particular tasks, work, and deliverables identified therein or as identified in the individual Task Orders and/or Work Orders issued pursuant to this Agreement. Said authorization and approval shall be sought and obtained by Consultant prior to subconsultants' commencement of any work under this Agreement. Specific subconsultants shall be authorized in individual Task Orders and Work Orders issued pursuant to this Agreement. Consultant shall require each subconsultant, to the extent of the work to be performed by the subconsultant, to be bound to Consultant by the terms of this Agreement and to assume toward Consultant all of the obligations and responsibilities that Consultant, by this Agreement, assumes toward County.

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

Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.

ARTICLE XIII

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, agents, associates, representatives, or subconsultants.

ARTICLE XIV

Prevailing Wage: County requires Consultant's services on public works project(s) involving local, state and/or federal funds to which prevailing wage requirements may apply. As a consequence, Consultant and any subconsultants authorized in the individual Task Orders issued pursuant to this Agreement shall comply with all applicable state and federal prevailing wage rates, statutes, rules and regulations then in effect. In the event of conflict between applicable federal and state provisions, the higher prevailing wage rate will apply. Consultant and its subconsultants shall use the general prevailing wage rates determined by the Director of Industrial Relations for the county in which the work is to be done, which are available at the office of County Department of Transportation for the district in which the work is situated. Changes, if any, to the general prevailing wage rates will be available at the same location. The federal minimum wage rates are determined by the United States Secretary of Labor and may be examined at the office described above. Future effective general prevailing wage rates which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates.

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

As required under the provisions of Labor Code Section 1776, Consultant and all subconsultants authorized under this Agreement shall keep accurate payroll records. Certified copies of all payroll records shall be made available for inspection at all reasonable hours at Consultant's principal office.

ARTICLE XV

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 XVI

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 XVII

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 or any Task Order or Work Order issued pursuant to this Agreement, in whole or in part upon seven (7) calendar days' written notice by County for any reason. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates, as set forth in the Notice of Termination provided to Consultant, and for such other services which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the not-to-exceed amount of the Task Order or Work Order or the total amount of this 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 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
Long Range Planning Division
2850 Fairlane Court
Placerville, California 95667

Attn.: David Defanti
Assistant Director

With a copy to:

County of El Dorado
Community Development Agency
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:

DKS Associates
8950 Cal Center Drive, Suite 340
Sacramento, California 95826

Attn.: John P. Long, Principal

or to such other location as Consultant directs.

ARTICLE XIX

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 XX

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 XXI

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.

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

ARTICLE XXII

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 XXIII

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 XXIV

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 XXV

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, medical condition, marital status, age, 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 Section 12990 and Title 2, California Code of Regulations, Section 8103.

ARTICLE XXVI

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 XXVII

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 XXVIII

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 XXIX

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 XXX

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 XXXI

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is David Defanti, Assistant Director, Long Range Planning Division, Community Development Agency, or successor.

ARTICLE XXXII

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 XXXIII

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

ARTICLE XXXIV

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 XXXV

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 XXXVI

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 and Division Concurrence:

By: 

David Defanti, Assistant Director
Long Range Planning Division
Community Development Agency

Dated: 4/6/16

Requesting Department Concurrence:

By: 

Steven M. Pedretti, Director
Community Development Agency

Dated: 4/7/16

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

-- COUNTY OF EL DORADO --

By: 
Ron Mikulaco
Board of Supervisors
"County"

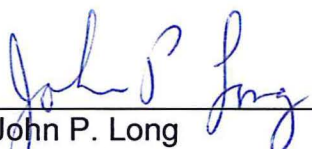
Dated: 4/5/16

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

By: 
Deputy Clerk

Dated: 4/5/16

-- DKS ASSOCIATES --

By: 
John P. Long
Principal
"Consultant"

Dated: 4/4/2016

DKS Associates

Exhibit A

Scope of Work

Consultant's services may include, but shall not be limited to:

- Traffic planning services associated with the implementation of the General Plan
- Assistance with development and implementation of traffic impact fee programs supporting the General Plan implementation efforts
- Preparing Level of Service studies
- Preparing or reviewing transportation impact studies
- Preparing or reviewing traffic reports for discretionary applications
- Reviewing traffic engineering improvements such as traffic signals, freeway interchanges, and intersection configurations
- Development of and review of traffic modeling and forecasts
- Reviewing traffic signal designs
- Preparing or reviewing transportation system management plans
- Preparing or reviewing congestion management plans

Consultant's review of transportation impact studies shall produce, at a minimum, a transmittal letter to County summarizing the review findings. The transmittal letter shall be prepared using Microsoft Word and be provided in hard copy and in electronic format compatible with County's software requirements and in accordance with ARTICLE I, Scope of Services, of this Agreement. Turnaround time for transportation impact study reviews shall not be more than two (2) weeks. Should Consultant be unable to meet the required turnaround time relative to a specific review, Consultant shall notify County's Contract Administrator within five (5) days of receipt of the plans of any additional time necessary to complete the review.

Deliverables and schedules for other studies shall be included in the individual Task Orders or Work Orders for the specific study.

DKS Associates

Exhibit B

Rate Schedule

Item	Rates 2016 to 2018
LABOR	
Principal	\$210 – 275 / hour
Senior Engineer Planner	\$150 – 210 / hour
Engineer / Planner	\$120 – 150 / hour
Associate Engineer / Planner	\$105 – 120 / hour
Assistant Engineer / Planner	\$90 – 105 / hour
Graphics / CADD	\$80 – 100 / hour
Administrative	\$70 – 90 / hour
EXPENDITURES	
*Mileage Expenses	
Direct Expenditures	At Cost

* Reimbursement for mileage expenses for CONSULTANT and for any subconsultants, if applicable, shall be compensated in accordance with the provisions of ARTICLE III, Compensation for Services, of this Agreement.

The rates listed in Exhibit B may be adjusted annually upon the expiration of the date range listed herein with thirty (30) days advanced written notice from Consultant and written approval by County's Contract Administrator. The rate increase shall not exceed four percent (4%) annually. Any rate increases authorized by County's Contract Administrator shall not increase the total not-to-exceed amount of the Agreement.