

**Robert Christenson
doing business as
Christenson Consulting**

FIRST AMENDMENT TO AGREEMENT FOR SERVICES #4970

THIS FIRST AMENDMENT to that Agreement for Services #4970 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 Robert Christenson, a sole proprietor duly qualified to conduct business in the State of California, doing business as Christenson Consulting, whose principal place of business is 1221 Macaulay Circle, Carmichael, California 95608 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, Consultant has been engaged by County to assist its Chief Administrative Office, Facilities Division, with project management consulting services for the replacement of the Shakori maintenance shed, pursuant to Agreement for Services #4970, dated July 13, 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 augment the scope of services to complete the project adding Assumption #5 to the Scope of Work, amending **ARTICLE I, Scope of Services**, and replacing Exhibit A, Scope of Work, with **Amended Exhibit A, Amended Scope of Work**;

WHEREAS, the parties hereto desire to amend the Agreement to extend the expiration date to March 31, 2024, 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 \$85,600, for a total not-to-exceed amount of \$157,450, and revise the rates for services rendered, amending **ARTICLE III, Compensation for Services**;

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

WHEREAS, the parties hereto desire to fully-replace specific Articles and add new Articles to include updated contract provisions;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Consultant mutually agree to amend the terms of the Agreement in this First Amendment to Agreement for Services #4970 on the following terms and conditions:

I. Exhibit A, Scope of Work is replaced in its entirety with Amended Exhibit A, Amended Scope of Work attached hereto and incorporated herein by reference. All references to Exhibit A, Scope of Work throughout the Agreement are substituted with Amended Exhibit A, Amended Scope of Work.

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

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and, as amended, shall expire on March 31, 2024.

III. **ARTICLE III, Compensation for Services**, of the Agreement is amended in its entirety to read as follows:

ARTICLE III

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

For the period beginning July 13, 2020, the effective date of the Agreement, and continuing through July 6, 2022, for the services provided herein, the billing rate shall be \$160.00 per hour with no special rates for overtime, weekends, or County-recognized holiday hours.

For the period beginning on July 7, 2022 and continuing through the remaining term of the Agreement, for the services provided herein, the billing rates shall be \$175.00 per hour with no special rates for overtime, weekends, or County-recognized holiday hours.

Other direct costs including reprographic services, subconsultants' services, and outside services authorized herein shall be invoiced at Consultant's cost, with a ten percent (10%) markup, for the services rendered. Any invoices that include subconsultant services and other direct costs shall be accompanied by backup documentation to substantiate Consultant's costs for the services being billed on those invoices. Rates may be updated annually upon County Department head prior written approval.

Travel time to the project site or offices in the Tahoe basin will be charged at a flat rate of \$250.00 per trip.

The total amount of this Agreement shall not exceed \$157,450, inclusive of all work of subconsultants, costs, taxes, and expenses.

Invoices shall follow the format specified by County and shall reference this Agreement number on their faces. 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
Chief Administrative Office
3000 Fairlane Court, Suite One
Placerville, California 95667
Attn.: Russ Fackrell
Facilities Division Manager

or to such other location as County directs.

In the event that Consultant fails to deliver, in the format specified, the deliverables 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 are received, or proceed as set forth below in ARTICLE XIV, Default, Termination, and Cancellation, herein.

IV. ARTICLE XV, Notice to Parties, of the Agreement is amended in its entirety to read as follows:

ARTICLE XV

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
Chief Administrative Office
Facilities Division
3000 Fairlane Court, Suite One
Placerville, California 95667

Attn.: Russell Fackrell
Facilities Division 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:

Christenson Consulting
1221 Macaulay Circle
Carmichael, California 95608

Attn.: Robert Christenson, Owner

or to such other location as Consultant directs.

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

ARTICLE VI

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 VII

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, including any subconsultants authorized herein, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Chief Administrative Office Facilities Division for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

ARTICLE VIII

Assignment and Delegation: Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County. County may, at its sole discretion, through its Contract Administrator, authorize Consultant to utilize subconsultants for services performed in ARTICLE I, Scope of Services, for the particular tasks, work and deliverables identified therein. Said authorization and approval shall be sought and obtained by Consultant prior to subconsultants'

commencement of any work under 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.

ARTICLE IX

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

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, subconsultant records, and documentation necessary to demonstrate performance under the Agreement.

ARTICLE XVII

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 XXI

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 XIV, Default, Termination, and Cancellation.

ARTICLE XXII

Nondiscrimination:

- A. County may require Consultant's services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant and its subconsultants, if any, shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Consultant and its employees, representatives, and subconsultants 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 and its subconsultants 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.

VI. 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.

ARTICLE XXXVI

Electronic Signatures: Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

Except as herein amended, all other parts and sections of Agreement for Services #4970 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement for Services #4970 on the dates indicated below.

--COUNTY OF EL DORADO--

By: Michele Weimer
Michele Weimer (May 18, 2022 14:51 PDT)

Dated: 05/18/2022

Purchasing Agent
Chief Administrative Office
"County"

--ROBERT CHRISTENSON
doing business as
CHRISTENSON CONSULTING--

By: Bob Christenson
Bob Christenson (May 9, 2022 08:07 PDT)

Dated: 05/09/2022

Robert Christenson, individually
and dba Christenson Consulting
"Consultant"

**Robert Christenson
doing business as
Christenson Consulting
Amended Exhibit A
Amended Scope of Work**

Consultant shall perform the following project management consulting services related to the replacement of the maintenance shed located at 1121 Shakori Way, South Lake Tahoe, California ("Project").

1. Coordinating the communication and activities of various engineers, consultants, the project architect, and County staff in the Department of Transportation (DOT) and Facilities Divisions related to the Project;
2. Acting as County liaison to participating public agencies outside of County related to the Project;
3. Assisting with preparation and updating of the project budget;
4. Preparing and maintaining the master project schedule;
5. Obtaining the required planning entitlements from County of El Dorado Planning Department;
6. Assisting County in selection of the project architect and the general contractor;
7. Acting as liaison to the general contractor.
8. Assisting County employees and other County consultants that may be retained in preparing needed applications to the various local agencies.
9. Periodic visits to the site to observe the progress and general quality of the work.
10. Providing monthly status reports to the Facilities Division Manager as to the progress, budget, change orders and any events that may adversely affect the Project.

With approval from the Facilities Division Manager, the services described above may be performed by Consultant's subconsultants.

The Scope of Work does not include the following:

1. Entering into any contractual agreement obligating County in any way.

2. Performing any professional design services.
3. Providing instructions or directions to County staff, outside consultants, vendors or contractors regarding means and methods of accomplishing their work.
4. Quality control or quality assurance services related to the construction.
5. Continual on-site inspection services.
6. Any warranty or guaranty, express or implied, as to the suitability or quality of the work or the performance of other consultants.
7. Assuming any role in or liability for the safety programs or services of other vendors, consultants, contractors of the County.

The parties agree to the following assumptions regarding the Scope of Work:

1. With respect to planning approvals, County Planning Department will have jurisdiction operating under the 2018 Memorandum of Understanding (MOU) with Tahoe Regional Planning Agency (TRPA) and that no more than one (1) public hearing will be required.
2. No off-site utility extensions or other public improvements will be required.
3. Quality assurance, quality control, and special inspections required by building codes will be performed by County Facilities staff and outside consultant(s).
4. The project architect will be selected from County pre-approved Statement of Qualifications (SOQ) schedule.
5. This assumes that the project is substantially complete by December 1, 2023 and that the Facilities Division will provide on-site construction services and administrative support.