

**Ascent Environmental, Inc.**

**On-call Planning and Environmental Services for Specific Plan Projects**

**AGREEMENT FOR SERVICES #236-S1710**

**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 Ascent Environmental, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 455 Capitol Mall, Suite 300, Sacramento, California 95814 (hereinafter referred to as "Consultant");

**R E C I T A L S**

**WHEREAS**, County has determined that it is necessary to obtain a consultant to assist its Community Development Agency by providing on-call planning services for specific plan projects;

**WHEREAS**, Consultant has represented to County that it is specially trained, experienced, expert, and competent to perform the special services required hereunder, and County has determined to rely upon such representations;

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

**WHEREAS**, County has determined that the provision of such services provided by Consultant are in the public's best interest, and that these services are more economically and feasibly performed by outside independent Consultants as well as authorized by El Dorado County Charter, Section 210(b)(6) and/or Government Code Section 31000;

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

**ARTICLE I**

**Scope of Services:** Consultant agrees to furnish personnel, equipment, and services necessary to perform on-call planning and environmental services for specific plan projects. 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 Work Orders to be issued in accordance with this Agreement.

Before proceeding with any work under this Agreement, the parties shall identify the specific services to be provided for each assignment. County's Contract Administrator will issue a written Work Order for each assignment. The period of performance for Work Orders shall be in accordance with dates specified in each Work Order. No

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

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

If a submittal or deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft (MS) Office 2010 applications (specifically, MS Word, MS Project and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). 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. Failure to submit the required deliverables in the format required shall be grounds for termination of the Agreement, as provided in ARTICLE XV, Default, Termination, and Cancellation, herein.

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

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire three (3) years thereafter.

## **ARTICLE III**

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

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "Rate Schedule," incorporated herein and made by reference a part hereof. The hourly rates listed on the Rate Schedule may be adjusted to a maximum of five percent (5%) increase per year which shall require written approval and acceptance by County's Contract Administrator prior to the new rates becoming effective. Any rate increases authorized by County's Contract Administrator shall not increase the not-to-exceed amount of the Agreement.

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

Other direct costs including special reproductions, delivery charges, postage, parking and other outside services authorized herein shall be invoiced in accordance with Exhibit B, 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.

The total amount of this Agreement shall not exceed \$65,400, inclusive of all expenses, costs, and Work Orders.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Consultant shall attach copies of any progress reports required under the provisions of Article 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 XV, Default, Termination, and Cancellation, herein.

#### **ARTICLE IV**

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

#### **ARTICLE V**

**Standards for Work:** Environmental services provided under this Agreement shall be performed in accordance with, and in full compliance with, the California Environmental

Quality Act (CEQA), Public Resources Code Sections 21000 et. seq., and in full compliance with CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Sections 15000 et. seq., such that the work will result in a CEQA certifiable environmental document. Services shall further conform to all State of California statutes, regulations and procedures, and all applicable federal laws, regulations and policy and procedural or instructional memoranda.

Consultant has full responsibility for the accuracy and completeness of the deliverables, reports and such other documents that may be required for the tasks or items of work assigned. Assistance, cooperation and oversight by County or other regulatory agencies will not relieve Consultant of this professional responsibility.

All work must be performed and work products prepared in a format and manner customarily anticipated by County and/or other appropriate approving agencies.

#### **ARTICLE VI**

**Progress Reports:** Upon final execution of Agreement and/or any Work Orders issued pursuant to this Agreement, 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 work as necessary to meet that level of acceptability as defined by County's Contract Administrator. Separate detail shall be provided for each Work Order. Progress reports shall include the total number of hours worked by Consultant 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 this Agreement and/or any 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**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE IX**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during the term hereof.

#### **ARTICLE X**

**Confidentiality:** Consultant shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Consultant, and all Consultant's staff, employees, and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Community Development 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 XI**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

#### **ARTICLE XII**

**Independent Contractor/Liability:** Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence

and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

### **ARTICLE XIII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

### **ARTICLE XIV**

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

### **ARTICLE XV**

#### **Default, Termination, and Cancellation:**

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (Time to Cure), then such party shall be in default. The Time to Cure may be extended at the discretion of the party giving notice. Any extension of Time to

Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the Time to Cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. **Bankruptcy:** This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. **Ceasing Performance:** County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation without Cause:** County may terminate this Agreement or any individual 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 Work Order or 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. 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.

#### **ARTICLE XVI**

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

To County:

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

Attn.: Shawna Purvines  
Principal Planner

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:

Ascent Environmental, Inc.  
455 Capitol Mall, Suite 300  
Sacramento, California 95814

Attn.: Gary D. Jakobs, President

or to such other location as Consultant directs.

#### **ARTICLE XVII**

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

#### **ARTICLE XVIII**

**Indemnity:** 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's 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 XIX

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Consultant in performance of the Agreement.
- D. In the event Consultant is a licensed professional or professional consultant and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Consultant shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Consultant agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Consultant agrees that no work or services shall be performed prior to the giving of such approval. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  1. The insurer will not cancel the insured's coverage without prior written notice to County; and

2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Consultant's insurance coverage shall be primary insurance as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division as essential for protection of County.

#### **ARTICLE XX**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

## **ARTICLE XXI**

**Interest of Consultant:** Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

## **ARTICLE XXII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XV, Default, Termination, and Cancellation, herein.

## **ARTICLE XXIII**

### **Nondiscrimination:**

- A. County may require Consultant's services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Consultant and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, 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.

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- 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 XXIV**

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

#### **ARTICLE XXV**

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

#### **ARTICLE XXVI**

**Business License:** County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

#### **ARTICLE XXVII**

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

#### **ARTICLE XXVIII**

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

**ARTICLE XXIX**

**Consultant's Project Manager:** Consultant designates Pat Angell, Senior Director, as its Project Manager for this Agreement. Consultant's Project Manager, or County-approved designee, shall be accessible to County's Contract Administrator, or designee, during normal County working hours and shall respond within twenty-four (24) hours to County inquiries or requests. Consultant's Project Manager shall be responsible for all matters related to Consultant's personnel and operations including, but not limited to (1) assigning qualified personnel to perform the required work and to prepare the deliverables required by the individual Work Orders issued pursuant to this Agreement; and (2) reviewing, monitoring, training and directing Consultant's personnel.

**ARTICLE XXX**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Shawna Purvines, Principal Planner, Long Range Planning Division, Community Development Agency, or successor.

**ARTICLE XXXI**

**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 XXXII**

**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 XXXIII**

**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.

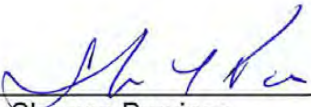
**ARTICLE XXXIV**

**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 XXXV**

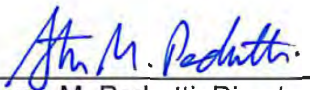
**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

**Requesting Contract Administrator Concurrence:**

By:   
Shawna Purvines  
Principal Planner  
Long Range Planning Division  
Community Development Agency

Dated: 10/5/14

**Requesting Department Concurrence:**

By:   
Steven M. Pedretti, Director  
Community Development Agency

Dated: 10/5/16

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

--COUNTY OF EL DORADO--

By:  \_\_\_\_\_

Dated: 10-6-16

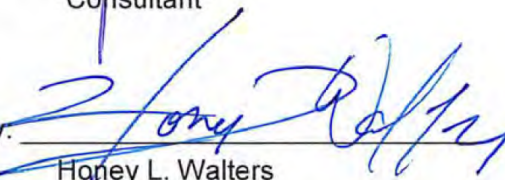
Purchasing Agent  
Chief Administrative Office  
"County"

--ASCENT ENVIRONMENTAL, INC.--

By:  \_\_\_\_\_

Dated: 9/29/16

Gary D. Jakobs  
President  
"Consultant"

By:  \_\_\_\_\_

Dated: 7/29/16

Honey L. Walters  
Secretary

**Ascent Environmental, Inc.**

**Exhibit A**

**Scope of Work**

Consultant's services may include specific tasks associated with current specific plan projects and may include but are not limited to the following:

- Application intake and reporting
- Consultation with other County departments as needed
- Preliminary project and application review
- Formal application review and evaluation for completeness
- Analysis of zoning, General Plan, and Specific Plans
- Site visits and applicant meetings
- Preparation of staff reports for Planning Commission and the Board of Supervisors as required
- Preparation of associated CEQA documents (EIRs, Negative Declarations, Mitigated Negative Declarations, and Addendums)
- Engagement and management of technical consultants for specific tasks or reports
- 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

Deliverables and schedules shall be included in the individual Work Orders for each assignment.



**Ascent Environmental**  
**Exhibit B**  
**Rate Schedule**

Labor Classification	Billing Rate *
Principal, Director	\$200 to \$250
Senior Environmental Manager, Senior Planner / Senior Scientist / Senior Biologist	\$150 to \$195
Environmental Manager, Project Planner / Project Scientist / Project Biologist	\$120 to \$165
Staff Planner, Environmental Planner Staff Scientist/Staff Biologist	\$100 to \$145
Graphics/GIS	\$85 to \$115
Document Production/Word Processor/Administrative Assistant	\$85 to \$95
Project Assistant	\$65 to \$85

Direct Costs	Rates
Reproduction: 8 ½" by 11" black & white	\$0.08/page
Reproduction: 8 ½" by 11" color	\$0.45/page
Reproduction: CDs	\$10/disc
Mileage**	See Below
GPS Unit	½ day/\$100, Full day/\$150 (no overnight) Multiple day/\$200 (24-hour), Week/\$500
Noise meter	½ day/\$100, Full day/\$150 (no overnight) Multiple day/\$200 (24-hour), Week/\$500
Other direct costs	Cost plus 10%

\* The hourly rates listed on the Rate Schedule may be adjusted to a maximum of five percent (5%) increase per year which shall require written approval and acceptance by County's Contract Administrator prior to the new rates becoming effective.

\*\* Reimbursement for mileage expenses, 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.

ORIGINAL

17  
17-54609

**Ascent Environmental, Inc.**

**FIRST AMENDMENT TO AGREEMENT FOR SERVICES #236-S1710**

**THIS FIRST AMENDMENT** to that Agreement for Services #236-S1710, 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 Ascent Environmental, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 455 Capitol Mall, Suite 300, Sacramento, California 95814 (hereinafter referred to as "Consultant");

**RECITALS**

**WHEREAS**, Consultant has been engaged by County to provide planning and environmental services for Development Projects and Specific Plan Projects for its Community Development Agency pursuant to Agreement for Services #236-S1710, dated October 6, 2016, incorporated herein and made by reference a part hereof (herein after referred to as "Agreement");

**WHEREAS**, the parties hereto desire to amend the Agreement to modify the scope of work to allow for additional services to be provided, 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 increase the not-to-exceed compensation amount of the Agreement by \$234,600, amending **ARTICLE III, Compensation for Services**;

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

**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 #236-S1710 on the following terms and conditions:

- I. **ARTICLE I, Scope of Services**, paragraphs one (1) and five (5) are amended in their entirety to read as follows:

Consultant agrees to furnish personnel, equipment, and services necessary to provide on-call planning and environmental services for specific plan and development projects. Services shall include, but not be limited to, those tasks identified in Amended Exhibit A, marked "Amended Scope of Work," incorporated herein and made by reference a part hereof, or as identified in the individual Work Orders to be issued in accordance with this Agreement.

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

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

III. **ARTICLE III, Compensation for Services**, paragraph five (5) of the Agreement is amended in its entirety to read as follows:

The total amount of this Agreement shall not exceed \$300,000, inclusive of all expenses, costs, 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 Work Orders.

IV. **ARTICLE XXX, Contract Administrator**, of the Agreement is amended in its entirety to read as follows:

**ARTICLE XXX, Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Roger Niello, Interim Director, Community Development Agency, or successor.

Except as herein amended, all other parts and sections of Agreement for Services #236-S1710 shall remain unchanged and in full force and effect.

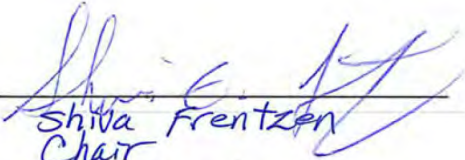
**Requesting Contract Administrator and Department Concurrence:**

By:   
Roger Niello  
Interim Director  
Community Development Agency

Dated: 4/25/17

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement for Services #236-S1710 on the dates indicated below.

-- COUNTY OF EL DORADO --

By:   
Shiva Frentzen  
Chair  
Board of Supervisors  
"County"


Dated: 4/25/17

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

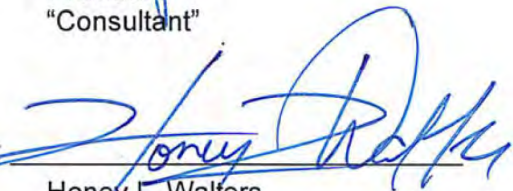
By:   
Marcie MacLeland  
Deputy Clerk

Dated: 4/25/17

-- ASCENT ENVIRONMENTAL, INC. --

By:   
Gary D. Jakobs  
President  
"Consultant"

Dated: 4/24/17

By:   
Honey L. Walters  
Corporate Secretary

Dated: 4/24/17

## **Ascent Environmental, Inc.**

### **Amended Exhibit A**

#### **Amended Scope of Work**

Consultant's services shall include specific tasks associated with specific plan projects, development projects and environmental planning services, and shall include, but not be limited to, the following:

- Application intake and reporting;
- Consultation with other County departments as needed;
- Preliminary project and application review;
- Formal application review and evaluation for completeness;
- Analysis of zoning, General Plan, and Specific Plans;
- Site visits and applicant meetings;
- Preparation of staff reports for Planning Commission and the Board of Supervisors as required;
- Preparation of associated CEQA documents (EIRs, Negative Declarations, Mitigated Negative Declarations, and Addendums);
- Engagement and management of technical consultants for specific tasks or reports;
- Presentations and/or assistance to County staff with project presentations to the Planning Commission and/or Board of Supervisors; and
- Conduct scoping, outreach, or public information meetings with County staff.

Deliverables and schedules shall be included in the individual Work Orders for each assignment.

# ORIGINAL

## Ascent Environmental Inc.

### SECOND AMENDMENT TO AGREEMENT FOR SERVICES #236-S1710

**THIS SECOND AMENDMENT** to that Agreement for Services #236-S170 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 Ascent Environmental, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 455 Capitol Mall, Suite 300, Sacramento, California 95814 (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 for specific plan projects pursuant to Agreement for Services #236-S1710, dated October 6, 2016, and First Amendment to Agreement for Services #236-S1710, dated April 25, 2017, both 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 term of the Agreement for three (3) additional years, 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 \$100,000, and to include a new fee schedule for the Agreement, amending **ARTICLE III, Compensation for Services**, and adding **Amended Exhibit B**;

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

**WHEREAS**, the parties hereto desire to amend the Agreement to update the Contract Administrator, amending **ARTICLE XXX, Contract Administrator**;

**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. All references to Community Development Agency throughout the Agreement are substituted with Planning and Building Department.
- II. **ARTICLE II, Term**, of the Agreement is amended in its entirety to read as follows:

#### **ARTICLE II**

**Term:** This Agreement shall become effective when fully executed by the parties hereto and shall expire on October 5, 2022.

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

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

For the purposes hereof, for the period beginning with the effective date of this Agreement and continuing until the day before the effective date of this Second Amendment to the Agreement, the billing rates shall be in accordance with Exhibit B, marked "Rate Schedule," incorporated herein and made by reference a part hereof. The hourly rates listed on the Rate Schedule may be adjusted to a maximum of five percent (5%) increase per year which shall require written approval and acceptance by County's Contract Administrator prior to the new rates becoming effective. Any rate increases authorized by County's Contract Administrator shall not increase the not-to-exceed amount of the Agreement.

For the period beginning with the effective date of this Second Amendment and continuing through the remaining term of the Agreement, the billing rates shall be in accordance with Amended Exhibit B, marked "Amended Rate Schedule," incorporated herein and made by reference a part hereof.

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

Other direct costs including special reproductions, delivery charges, postage, parking, and other outside services authorized herein for the period beginning with the effective date of this Agreement and continuing until the day before the effective date of this Second Amendment to the Agreement, the billing rates shall be in accordance with Exhibit B, for 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.

For the period beginning with the effective date of this Second Amendment and continuing through the remaining term of the Agreement, other direct costs including special reproductions, delivery charges, postage, parking, and other outside services authorized herein, the billing rates shall be in accordance with

Amended Exhibit B, for 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.

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

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Consultant shall attach copies of any progress reports required under the provisions of Article 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  
Planning and Building Department  
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 XV, Default, Termination, and Cancellation, herein.

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

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  
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:

Ascent Environmental, Inc.  
455 Capitol Mall, Suite 300  
Sacramento, California 95814

Attn: Gary D. Jakobs  
President


or to such other location as Consultant directs.

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

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

Except as herein amended, all other parts and sections of Agreement for Services #236-S1710, as amended, shall remain unchanged and in full force and effect.

**Requesting Contract Administrator Concurrence:**

By:   
Rommel Pabalinas  
Planning Manager  
Planning and Building Department

Dated: 9/24/19

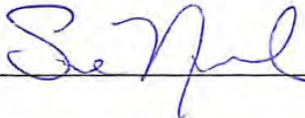
**Requesting Department Concurrence:**

By:   
Tiffany Schmid, Director  
Planning and Building Department

Dated: 09/07/19

**IN WITNESS WHEREOF**, the parties hereto have executed this Second Amendment to Agreement for Services # 236-S1710 on the dates indicated below.


**-- COUNTY OF EL DORADO --**

By: 

Dated: 9/24/2019


Board of Supervisors  
"County"

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By:   
Deputy Clerk

Dated: 9/24/2019

**-- ASCENT ENVIRONMENTAL, INC. --**

By:   
Gary D. Jakobs  
President  
"Consultant"

Dated: 9/19/2019

By:   
Honey L. Walters  
Corporate Secretary

Dated: 9/19/2019

# Ascent Environmental, Inc.

## Amended Exhibit B

### Amended Rate Schedule

Labor Classification	Billing Rate *
Principal, Director	\$210 to \$265
Senior Environmental Manager, Senior Planner/Scientist/Biologist	\$160 to \$200
Environmental Manager, Project Planner/Scientist/Biologist	\$130 to \$175
Staff Planner, Environmental Planner Staff Scientist/Staff Biologist	\$105 to \$150
Graphics/GIS	\$90 to \$125
Document Production/Word Processor/Administrative Assistant	\$90 to \$110
Project Assistant	\$70 to \$95
Direct Costs	Rates*
Reproduction: 8 ½" by 11" black & white	\$0.08/page
Reproduction: 8 ½" by 11" color	\$0.45/page
Reproduction: CDs	\$10/disc
Mileage**	See Below
GPS Unit	½ day/\$100, Full day/\$150 (no overnight)
	Multiple day/\$200 (24-hour), Week/\$500
Noise meter	½ day/\$100, Full day/\$150 (no overnight)
	Multiple day/\$200 (24-hour), Week/\$500
Other direct costs	Cost plus 10%

\*The hourly rates listed on the Rate Schedule may be adjusted to a maximum of five percent (5%) increase per year which shall require written approval and acceptance by County's Contract Administrator prior to the new rates becoming effective.

\*\*Reimbursement of mileage expenses, 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 the Consultant or any subconsultant.

# ORIGINAL

## Ascent Environmental, Inc.

### THIRD AMENDMENT TO AGREEMENT FOR SERVICES #236-S1710

**THIS THIRD AMENDMENT** to that Agreement for Services #236-S1710 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 Ascent Environmental, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 455 Capitol Mall, Suite 300, Sacramento, California 95814, (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 and environmental services for specific plan projects, development project, and environmental planning services pursuant to Agreement for Services #236-S1710, dated October 6, 2016, First Amendment to Agreement for Services #236-S1710, dated April 25, 2017, and Second Amendment to Agreement for Services, dated September 24, 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 of October 5, 2022 for six (6) additional months to April 15, 2023, 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 \$400,000, amending **ARTICLE III, Compensation for Services**;

**WHEREAS**, the parties hereto desire to amend the Agreement to memorialize the independent contractor relationship created through this agreement, amending **ARTICLE XII, Independent Contractor/Liability**;

**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 Third 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:

#### **ARTICLE II**

**Term**: This Agreement shall become effective when fully executed by the parties hereto and shall expire on April 15, 2023, as amended.

II. **ARTICLE III, Compensation for Services**, the 7<sup>th</sup> and 8<sup>th</sup> paragraphs of the Article are amended in 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, 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 Work Orders.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Consultant shall attach copies of any progress reports required under the provisions of ARTICLE 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  
Planning and Building Department  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Jean Warner  
Senior Administrative Analyst

or to such other location as County directs.

III. **ARTICLE XII, Independent Contractor/Liability** of the Agreement is amended in its entirety to read as follows:

**ARTICLE XII  
Independent Contractor/Liability**

Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

The parties intend that an independent contractor-employer relationship was created by this Agreement. It is understood that County does not agree to use Consultant exclusively.

Consultant, including any subconsultants or employees of Consultant, shall not receive or seek, 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 or seek, 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 the Consultant.

Consultant and its subconsultants 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 the Consultant provides for its employees.

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

Except as herein amended, all other parts and sections of Agreement for Services #236-S1710, as amended, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Agreement for Services #236-S1710 on the dates indicated below.


-- COUNTY OF EL DORADO --

By: 

Dated: 6/30/2020

Board of Supervisors  
"County"

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

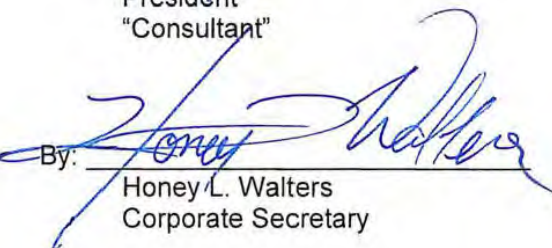
By:   
Deputy Clerk

Dated: 6/30/2020

-- ASCENT ENVIRONMENTAL, INC. --

By:   
Gary D. Jacobs  
President  
"Consultant"

Dated: 6/5/2020

By:   
Honey L. Walters  
Corporate Secretary

Dated: 6/5/2020



**Ascent Environmental, Inc.**

**FOURTH AMENDMENT TO AGREEMENT FOR SERVICES #236-S1710**

**THIS FOURTH AMENDMENT** to that Agreement for Services #236-S1710 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 Ascent Environmental, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 455 Capitol Mall, Suite 300, Sacramento, California 95814 (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 and environmental services for specific plan projects, development projects, and environmental planning services pursuant to Agreement for Services #236-S1710, dated October 6, 2016, First Amendment to Agreement for Services #236-S1710, dated April 25, 2017, Second Amendment to Agreement for Services #236-S1710, dated September 24, 2019, and Third Amendment to Agreement for Services #236-S1710, dated June 30, 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 \$800,000, for a total not-to-exceed amount of \$1,600,000, update the invoice recipient, and revise the rates for services rendered, amending **ARTICLE III, Compensation for Services**, and adding **Amended Exhibit B-1**;

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

**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 Fourth Amendment to Agreement on the following terms and conditions:

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

### **ARTICLE III**

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

For the period beginning October 6, 2016, the effective date of the Agreement, and continuing through the day before the effective date of the Second Amendment to the Agreement, for the services provided herein, the billing rates shall be in accordance with Exhibit B, marked "Rate Schedule," incorporated herein and made by reference a part hereof. The hourly rates listed on the Rate Schedule may be adjusted to a maximum of five percent (5%) increase per year which shall require written approval and acceptance by County's Contract Administrator prior to the new rates becoming effective. Any rate increases authorized by County's Contract Administrator shall not increase the not-to-exceed amount of the Agreement.

For the period beginning September 24, 2019, the effective date of the Second Amendment, and continuing through the day before the effective date of the Fourth Amendment to the Agreement, for the services provided herein, the billing rates shall be in accordance with Amended Exhibit B, marked "Amended Rate Schedule," incorporated herein and made by reference a part hereof.

For the period beginning on the effective date of the Fourth Amendment to the Agreement and continuing through the remaining term of the Agreement, for the services provided herein, the billing rates shall be in accordance with Amended Exhibit B-1, marked "Amended Rate Schedule," incorporated herein and made by reference a part hereof.

Notwithstanding any other provision of this Agreement to the contrary, payments to Consultant for travel, lodging, per diem, and mileage expenses, if applicable, for Consultant's claims for reimbursement shall not exceed the rates to be paid to County employees under the current Board of Supervisor's Travel Policy in effect at the time the expenses are incurred. Any individual travel expense exceeding one hundred dollars (\$100) and any work requiring overnight stay must be approved in advance by the Contract Administrator or designee. Consultant is responsible for canceling hotel rooms before the cancellation period ends and should record the cancellation number in case of disputes. Consultant shall not be reimbursed for "no-show" hotel charges unless there are unavoidable reasons for not cancelling the room and the Contract Administrator or designee has determined that the reasons are valid.

For the period beginning October 6, 2016, the effective date of the Agreement, and continuing through the day before the effective date of the Second Amendment, the billing rates for other direct costs including special

reproductions, delivery charges, postage, parking, and other outside services authorized herein, for services rendered, shall be in accordance with Exhibit B. 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.

For the period beginning September 24, 2019, the effective date of the Second Amendment, and continuing through the day before the effective date of the Fourth Amendment to the Agreement, the billing rates for other direct costs including special reproductions, delivery charges, postage, parking, and other outside services authorized herein, for services rendered, shall be in accordance with Amended Exhibit B. 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.

For the period beginning on the effective date of the Fourth Amendment to the Agreement and continuing through the remaining term of the Agreement, the billing rates for other direct costs including special reproductions, delivery charges, postage, parking, and other outside services authorized herein, for services rendered, shall be in accordance with Amended Exhibit B-1. 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.

The total amount of this Agreement, as amended, shall not exceed \$1,600,000, inclusive of all expenses, costs, taxes, 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 Work Orders.

Itemized invoices shall follow the format specified by County and shall reference this Agreement and the County-supplied Work Order number both on their faces and on any enclosures or backup documentation. 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. Consultant shall bill County for only one (1) Work Order per invoice. 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.

In the event that Consultant fails to deliver, in the format specified, the deliverables and progress reports required by this Agreement or in the individual Work Orders issued pursuant to this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the required deliverables or progress reports are received, or proceed as set forth below in ARTICLE XV, Default, Termination, and Cancellation, herein.

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

**ARTICLE XVI**

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

To County:

County of El Dorado  
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:

Ascent Environmental, Inc.  
455 Capitol Mall, Suite 300  
Sacramento, California 95814

Attn.: Patrick Angell, Principal

or to such other location as Consultant directs.

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

**ARTICLE IX**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further 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 XII**

**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 XV**

##### **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 XXII, 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 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 the 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 XVIII**

**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 XXII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and 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 XV, Default, Termination, and Cancellation.

#### **ARTICLE XXIII**

##### **Nondiscrimination:**

- A. County may require Consultant's services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Consultant and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender 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.

#### **IV. The following Articles of the Agreement are added to read as follows:**

##### **ARTICLE XXXVI**

**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 XXXVII**

**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 #236-S1710 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to Agreement for Services #236-S1710 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

-- ASCENT ENVIRONMENTAL, INC. --

By:   
Patrick Angell (Sep 15, 2021 10:39 PDT)  
Patrick Angell  
Principal  
"Consultant"

Dated: 09/15/2021



**ASCENT ENVIRONMENTAL, INC.  
AMENDED EXHIBIT B-1  
AMENDED RATE SCHEDULE**

Labor Classification	Billing Rate
Principal, Director	\$200 to \$340
Senior Environmental Manager, Senior Planner/Scientist/Biologist	\$170 to \$240
Environmental Manager, Project Planner/Scientist/Biologist	\$125 to \$190
Staff Planner, Environmental Planner, Staff Scientist/Staff Biologist	\$110 to \$150
Graphics/GIS	\$95 to \$135
Document Production/Word Processor/ Administrative Assistant	\$95 to \$125
Project Assistant	\$75 to \$115
Direct Costs	Rates
Reproduction: 8½" by 11"	\$0.07/page (black and white); \$0.26/page (color)
Reproduction: 11" by 17"	\$0.14/page B&W; \$0.52/page color
Reproduction: Plotter	\$5/square foot
Reproduction: CDs	\$10/disc
Automobile Mileage	In accordance with ARTICLE III
Noise Meter	\$100/half day, \$150/day, \$200/day plus overnight, \$500/week
GPS Unit	\$100/half day, \$150/day, \$200/day plus overnight, \$500/week
Lodging and/or Per Diem	In accordance with ARTICLE III
Other Direct Costs	As incurred
Subcontractors	As incurred*

\*A project-support management cost of ten (10) percent will be applied to subcontractor costs.

**Lump-Sum Price.** Work is authorized based on a lump sum price. Monthly invoices will be issued based on the percentage of progress toward completion of the work.

**Price Allocation to Tasks or Staff.** If the proposed cost presentation allocates funding to specific tasks or staff, Consultant may reallocate budget during the course of work, as long as the total contract price is not exceeded.