

Tahoe Resource Conservation District

FOURTH AMENDMENT TO AGREEMENT FOR SERVICES #102-S1710

THIS FOURTH AMENDMENT to that Agreement for Services #102-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 Tahoe Resource Conservation District, a conservation district duly qualified to conduct business in the State of California, whose principal place of business is 870 Emerald Bay Road, Suite 108, South Lake Tahoe, California 96150 (hereinafter referred to as "District");

RECITALS

WHEREAS, District has been engaged by County to provide stormwater compliance monitoring services for the Planning and Building Department pursuant to Agreement for Services #102-S1710, dated November 16, 2016, First Amendment to Agreement for Services #102-S1710, dated April 12, 2018, Second Amendment to Agreement for Services #102-S1710, dated December 18, 2018, and Third Amendment to Agreement for Services #102-S1710, dated October 22, 2019, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

WHEREAS, the parties hereto desire to amend the Agreement to extend the expiration date for six (6) additional months, to June 30, 2022, 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 \$19,840, for a total not-to-exceed amount of \$199,673, amending **ARTICLE III, Compensation for Services**, and replacing Amended Exhibit C, Amended Cost Estimate with **Amended Exhibit C-1, Amended Cost Estimate**;

WHEREAS, the parties hereto desire to update the notice recipient addresses, amending **ARTICLE XVI, Notice to Parties**;

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

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 District mutually agree to amend the terms of the Agreement in this Fourth Amendment to Agreement on the following terms and conditions:

- I. Amended Exhibit C, marked "Amended Cost Estimate," is replaced in its entirety with Amended Exhibit C-1, marked "Amended Cost Estimate," attached hereto and incorporated herein by reference. All references to Amended Exhibit C throughout the Agreement are substituted with Amended Exhibit C-1.
- 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 shall cover the period of January 1, 2017 through June 30, 2022.

- III. **ARTICLE III, Compensation for Services**, paragraphs 8 and 9 of the Agreement are amended in their entireties to read as follows:

The total amount of this Agreement shall not exceed \$199,673, inclusive of all costs, taxes, and expenses.

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

Attn.: Brendan Ferry
Deputy Director

Or to such other location as County Directs

- IV. **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:

With a copy to:

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

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

Attn.: Brendan Ferry
Deputy Director
Tahoe Planning and
Stormwater Division

Attn.: Michele Weimer
Procurement and Contracts Manager

or to such other location as County directs.

Notices to District shall be in duplicate and addressed as follows:

Tahoe Resource Conservation District
870 Emerald Bay Road, Suite 108
South Lake Tahoe, California 96150

Attn.: Carl Ribaud
President

or to such other location as the District directs.

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

ARTICLE XXVII

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Brendan Ferry, Deputy Director, Planning and Building Department, Tahoe Planning and Stormwater Division, or successor.

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

ARTICLE XII

Independent Contractor: The parties intend that an independent consultant relationship will be created by this contract. District 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. District 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 District. Those persons will be entirely and exclusively under the direction, supervision, and control of District.

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

District, including any subconsultant or employees of District, 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. District 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 District. District shall not be subject to the work schedules or vacation periods that apply to County employees.

District 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 District provides for its employees.

District 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 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 District and performing work for County and who are considered to be 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 consultants 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.

District covenants that during the term of this Agreement neither it, or any officer or employee of District, 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 District becomes aware of a conflict of interest related to this Agreement, District 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 District's services on projects involving funding from various state and/or federal agencies, and as a consequence, District shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: District 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; District 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. District and its employees and representatives shall give written notice of their obligations under this clause as required by law.

- B. Where applicable, District shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. District'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.

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

ARTICLE XXXIII

District 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 District, and District may perform similar work or services for others. However, District 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 District's responsibilities or hinder District's performance of services hereunder, unless County's Contract Administrator, in writing, authorizes that agreement or sharing of information.

ARTICLE XXXIV

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

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

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

ARTICLE XXXV

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

Except as herein amended, all other parts and sections of Agreement for Services #102-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 #102-S1710 on the dates indicated below.

--COUNTY OF EL DORADO--

By: 

Dated: 12-14-21

Board of Supervisors
"County"

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: 

Dated: 12-14-21

Deputy Clerk

--TAHOE RESOURCE CONSERVATION DISTRICT--

By: *Carl Ribauda*
Carl Ribauda (Nov 2, 2021 09:03 PDT)

Dated: 11/02/2021

Carl Ribauda
President
"District"