

AGREEMENT FOR SERVICES #199-S1311

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**THIS AGREEMENT** made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Vanir Construction Management, Inc., a California corporation, duly qualified to conduct business in the State of California, whose principal place of business is 4540 Duckhorn Drive, Suite 300, Sacramento, California 95834 (hereinafter referred to as "Consultant");

**RECITALS**

**WHEREAS**, County has determined that it is necessary to obtain a consultant to assist the Chief Administrative Office Facilities Management Division in providing a comprehensive facility site condition assessment; and

**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; and

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

**WHEREAS**, County has determined that the provision of these services provided by Consultant is 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 31000;

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

## **ARTICLE I**

**Scope of Services:** Consultant shall perform all professional and technical services and shall make available Consultants own personnel, subconsultants, materials and equipment necessary to perform the services, work, and tasks outlined in Exhibit "A", marked "Scope of Work", incorporated herein and made by reference a part hereof (hereafter the "Work").

Upon full execution of this Agreement, the Contract Administrator will issue a single written Notice to Proceed for all of the tasks and services to be provided under this Agreement. Contractor shall not commence work on any of the tasks or services until receiving the Notice to Proceed. No payment will be made for any work performed prior to the date specified in the Notice to Proceed. The schedule for tasks and services shall be mutually agreed upon by the Contract Administrator and Contractor

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire one year from the date thereof.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, County agrees to pay Consultant lump sum upon completion within thirty (30) days following the County's receipt and approval of itemized invoice(s) identifying services rendered. For the purposes of this Agreement, the billing rate shall be in accordance with Exhibit "A". Total amount of this Agreement shall not exceed \$87,533.00.

## **ARTICLE IV**

**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 V**

**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 term hereof.

## **ARTICLE VI**

**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 VII**

**Independent Consultant/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 terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subConsultants, 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 VIII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado 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 the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

**ARTICLE IX**

**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 on 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 the 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 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 contract. 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.

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**ARTICLE X**

**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 addressed as follows:

COUNTY OF EL DORADO  
CHIEF ADMINISTRATIVE OFFICE  
FACILITIES MANAGEMENT DIVISION  
3000 FAIRLANE COURT  
SUITE 1  
PLACERVILLE, CA 95667  
ATTN: RUSSELL FACKRELL  
FACILITIES MANAGER

or to such other location as the County directs.

Notices to Consultant shall be addressed as follows:

VANIR CONSTRUCTION MANAGEMENT, INC.  
4540 DUCKHORN DRIVE  
SUITE 300  
SACRAMENTO, CA 95834  
ATTN: STEVEN WHITEHEAD, PE  
AREA MANAGER/ASSOCIATE

or to such other location as the Consultant directs.

**ARTICLE XI**

**Indemnity:** The Consultant shall defend, indemnify, and hold the County 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 the Consultant's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Consultant, subConsultant(s) and employee(s) of any of these, except for the sole, or active negligence 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 XII**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager 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 \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Consultant in the performance of the Agreement.
- D. In the event Consultant is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Consultant shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Consultant agrees that the insurance required above 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 the 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 the 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 thirty (30) days prior written notice to County, and;
  - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Consultant's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and volunteers; or the 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 the 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 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. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of the County.

### **ARTICLE XIII**

**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 XIV**

**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 XV**

**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 contract 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 the Article in the Agreement titled, "Default, Termination and Cancellation".

## **ARTICLE XVI**

**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 corporation, certifying that it has a permanent place of business in California. The Consultant will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Consultant during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

## **ARTICLE XVII**

**Nonresident Withholding:** If Consultant is not a California resident, Consultant shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Consultant during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Consultant shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

## **ARTICLE XVIII**

**Taxpayer Identification Number (Form W-9):** All independent Consultants or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

## **ARTICLE XIX**

**County Business License:** 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 Code Section 5.08.070.



**ARTICLE XX**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Russell Fackrell,, Facilities Manager, Chief Administrative Office, or successor.

**ARTICLE XXI**

**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 to the obligations set forth herein.

**ARTICLE XXII**

**Partial Invalidity:** If any provision of this 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 XXIII**

**Venue:** 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 XXIV**

**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 XXV**

**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: \_\_\_\_\_  
Russell Fackrell  
Facilities Manager  
Chief Administrative Office

Dated: \_\_\_\_\_

**Requesting Department Head Concurrence:**

By: \_\_\_\_\_  
Terri Daly  
Chief Administrative Officer

Dated: \_\_\_\_\_

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

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

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Chair  
Board of Supervisors  
"County"

ATTEST:  
Terri Daly, Acting Clerk  
of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

Dated: \_\_\_\_\_

**-- CONSULTANT --**

Vanir Construction Management, Inc.  
A California Corporation

By: \_\_\_\_\_  
Mansour Aliabadi, President  
"Consultant"

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Corporate Secretary

Dated: \_\_\_\_\_

**Vanir Construction Management, Inc.**

**Exhibit A**

**Scope of Work**

Consultant shall provide services to complete a Condition Assessment for the County of El Dorado's following facilities:

County Correctional Facilities:

- Bldg # 126 - Main Jail (Placerville), 300 Forni Road (85,920 SF)
- Bldg # 621 - South Lake Tahoe Jail, 1051 Al Tahoe Blvd. (14,563SF)
- Bldg # 622 - South Lake Tahoe Jail , 1051 Al Tahoe Blvd. (48,825 SF)
- Bldg # 631 - South Lake Tahoe Sally port, 1051 Al Tahoe Blvd. (800 SF)
- Bldg # 123 - Juvenile Hall, 299 Fair Lane (7,308 SF)
- Bldg # 620 - South Lake Tahoe Juvenile Treatment Center, 1041 Al Tahoe Blvd. (26,180 SF)
- Bldg # 120 - Sheriff Administration, 300 Fair Lane (21,354 SF)

For purposes hereof, the assessment rate shall be \$0.18 per square foot for County Correctional Facilities.

County Facilities (non-correctional):

- Bldg # 100- Building A, 330 Fair Lane (38,987 SF)
- Bldg # 110 - Building B, 360 Fair Lane (45,766 SF)
- Bldg # 115 - Buiding C, 2850 Fairlane Court (68,800 SF)
- Bldg # 160 - Main Library (Placerville), 345 Fair Lane (38,292 SF)
- Bldg # 221 - District Attorney, 515 Main Street (9,644 SF)
- Bldg # 330 - DOT Administration, 2441 Headington Road (21,916 SF)
- Bldg # 362 - Library (Cameron Park), 2500 Country Club Drive (12,574 SF)
- Bldg # 440 & 440A - Public Health & Senior Daycare, 935 Spring Street (18,976 SF)
- Bldg # 441 - Public Health, 931 Spring Street (7,776 SF)
- Bldg # 470 - Community Services / Senior Nutrition, 937 Spring Street (21,775 SF)
- Bldg # 600 - South Lake Tahoe County Administration, 1360 Johnson Blvd. (22,343 SF)
- Bldg # 610 - South Lake Tahoe El Dorado Center, 3368 Lake Tahoe Blvd (18,543 SF)
- Bldg # 760 - South Lake Tahoe Library, 1000 Rufus Allen Blvd. (12,221 SF)

For purposes hereof, the assessment rate shall be \$0.15 per square foot for County Non-Correctional Facilities.

## **CONDITION ASSESSMENTS**

The Condition Assessment effort will be divided into the following tasks:

### **Task 1 – Client Meetings/Data Gathering-Verification**

Consultant shall meet with the County representatives as required for information gathering of the selected facilities. Consultant shall collect data and or records of recent major maintenance, hazmat reports, ADA assessments studies etc. as well as conduct interviews with County maintenance personnel.

### **Task 2 – Field Assessments**

Utilizing data obtained from Task 1, the Consultant's assessment teams will perform a site visit at each facility. Each site visit shall include investigation of the condition of the building systems and documented findings, including the remaining useful life of each system, shall be reported to the Contract Administrator.

Building systems that will be reviewed include:

- Site Utilities
- Exterior Lighting
- Paving
- Landscape and Irrigation
- Building Structural Systems
- Roofing
- Exterior Envelope
- Interior Systems
- Plumbing
- HVAC
- Electrical
- Fire and Life Safety

As each subsystem is assessed, Consultant shall identify and quantify specific deficiencies and actions required to address the noted deficiencies and their associated costs of repair or replacement. Any complex or unique deficiency will be documented by digital photographs.

### **Task 3 – Reporting/Deliverables**

The Consultant shall enter the data into a reportable format. Upon completion of this data entry, the Consultant shall produce two bound copies of the findings, including strategic digital photographs.

The report shall include:

- Estimated life expectancy of all existing, major building systems.
- Replacement costs.

- Prioritization of repair/replacement projects with recommended schedule.

County shall receive the data in MS Excel format including two bound report copies as described above.

### **Task Coordination and Schedule**

- The Correctional Facilities are secured. Contractor shall coordinate with Contract Administrator to arrange for escorts on the job-site at least forty-eight (48) hours prior to commencement of on-site work.
- Within three working days of the dated Notice to Proceed Consultant shall make themselves available for a kick-off meeting and data gathering. The total duration to complete the aforementioned tasks shall take no longer than ten weeks from the date of the Notice to Proceed. Should unforeseen circumstances require an extension of time to complete these tasks, approval will be provided by the Contract Administrator in writing to the Consultant.