

ICF Jones & Stokes, Inc.

FIRST AMENDMENT TO AGREEMENT FOR SERVICES 008D-A-12/13-BOS

COUNTY FILE NUMBER PA12-0004

THIS FIRST AMENDMENT to that Agreement for Services 008D-A-12/13-BOS 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 ICF Jones & Stokes, Inc., a Delaware corporation duly qualified to conduct business in the State of California, whose principal place of business is 9300 Lee Highway, Fairfax, Virginia 22031, and whose local place of business is 630 K Street, Suite 400, Sacramento, California 95814 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, Consultant has been engaged by County to assist in the preparation of a legally and technically adequate Environmental Impact Report (hereinafter referred to as "EIR") for the Village of Marble Valley Specific Plan development project (hereinafter referred to as "Project"), located in the El Dorado Hills area of the County of El Dorado, California, in accordance with Agreement for Services 008D-A-12/13-BOS, dated November 13, 2012, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement"); and

WHEREAS, the parties hereto have mutually determined and agreed to amend **ARTICLE I, Scope of Services**, to add Exhibit A-1, Additional Scope of Services; and

WHEREAS, the parties hereto have mutually determined and agreed to amend **ARTICLE III, Compensation for Services**, to increase the not-to-exceed compensation amount of the Agreement by \$70,209.00, to add Exhibit C, Fee Schedule, and to add Exhibit D, Cost Estimate; and

WHEREAS, the parties hereto have mutually determined and agreed to amend **ARTICLE IV, Changes to Agreement**, to require prior written approval by County's Administrator for changes to Consultant's Project Manager and subconsultant; and

WHEREAS, the parties hereto have mutually determined and agreed to amend **ARTICLE VII, Assignment and Delegation**, to authorize Consultant to utilize a subconsultant; and

WHEREAS, the parties hereto have mutually determined and agreed to amend **ARTICLE XI, Notice to Parties**; and

WHEREAS, the parties hereto have mutually determined and agreed to amend **ARTICLE XX, Administrator**, to change County's Administrator; and

WHEREAS, the parties hereto have mutually determined and agreed to amend the Agreement to add **ARTICLE XXV, Change of Address; ARTICLE XXVI, Audit by California State Auditor; ARTICLE XXVII, No Third Party Beneficiaries; ARTICLE XXVIII, Counterparts; ARTICLE XXIX, Taxes; and ARTICLE XXX, Consultant's Project Manager**, to reflect updated County contracting provisions;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Consultant mutually agree to amend the terms of the Agreement in this First Amendment to Agreement for Services 008D-A-12/13-BOS, as follows:

The Agreement is hereby amended such that all references to County's "Development Services Department" shall now read County's "Community Development Agency."

ARTICLE I, Scope of Services, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE I

Scope of Services: Consultant shall perform all professional and technical services, work, and tasks required to accomplish the objectives set forth herein, and shall provide and make available Consultant's own personnel, subconsultants, materials, equipment and services necessary to prepare a legally and technically adequate EIR which would be certified by the Board of Supervisors of the County of El Dorado. Services shall include, but are not limited to, those tasks identified in Exhibit A, incorporated herein and made by reference a part hereof, and Exhibit A-1, marked "Additional Scope of Services," incorporated herein and made by reference a part hereof.

County's Administrator will issue Consultant a single written Notice to Proceed for all of the Tasks listed in Exhibit A, hereto, and Consultant shall not commence any work until receiving the Notice to Proceed. County's Administrator will issue a single written Notice to Proceed for all of the Tasks listed in Exhibit A-1, Additional Scope of Services, hereto, and Consultant shall not commence any work until receiving the Notice to Proceed.

Exhibit A-1, hereto, outlines the scope of Consultant's subconsultant's responsibilities. All of the Tasks included in Exhibit A and Exhibit A-1, Additional Scope of Services, are the responsibility of Consultant, unless specifically described as a task or item of work to be provided by County. Consultant shall be responsible for the supervision, administration and work performed by any subconsultant for services rendered under this Agreement.

ARTICLE III, Compensation for Services, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE III

Compensation for Services: Consultant agrees, understands, and acknowledges that the monies utilized by County to pay it, as set forth under this Agreement, are provided by the Applicant (Marble Valley, LLC) under a separate agreement between County and the Applicant. Consultant agrees that payment, or any portion thereof, to it under this Agreement shall be expressly conditioned on, and dependent upon the payment to County by the Applicant under the terms of said separate agreement, and that County has no obligation to pay Consultant for work performed hereunder until County receives the requisite monies from the Applicant.

For services provided herein, including all deliverables described in Exhibits A and A-1 hereto, County agrees to pay Consultant monthly in arrears and within forty-five (45) days following County receipt and approval of itemized invoices detailing services rendered.

For the period beginning with the effective date of this Agreement and continuing to one day before the effective date of this First Amendment to Agreement for Services 008D-A-12/13-BOS, Consultant shall bill in accordance with the following billing rate schedule:

The Village of Marble Valley Specific Plan EIR		
Task	Description	Cost
1.0	Project Initiation	\$ 2,331
2.0	Project Management and Meetings	\$ 13,288
3.0	Prepare Project Description and Notice of Preparation	\$ 14,904
4.0	Administrative Draft EIR	\$198,358
5.0	Public Draft EIR	\$ 22,731
6.0	Respond to Comments	\$ 29,526
7.0	Final EIR	\$ 12,384
8.0	Attend Public Meetings	\$ 4,766
9.0	Prepare Notice of Determination	\$ 309
10.0	Direct Expenses	\$ 2,790
TOTAL		\$301,387

For the period beginning with the effective date of this First Amendment to Agreement for Services 008D-A-12/13-BOS and continuing through the remaining term of the Agreement, the billing rates shall be in accordance with Exhibit C, marked "Fee Schedule," incorporated herein and made by reference a part hereof. Other direct costs including subconsultant's services authorized herein shall be invoiced at Consultant's cost, with a ten percent (10%) markup, for services rendered. Any invoices that include other direct costs, or subconsultant's costs, shall be accompanied by backup documentation to substantiate Consultant's costs for the services being billed on those invoices.

For the purpose of budgeting the items identified in Exhibit A, and Exhibit A-1, Additional Scope of Services, herein, the maximum allowable billing amounts for each item of work are described in Exhibit D, marked "Cost Estimate*," incorporated herein and made by reference a part hereof. The amounts indicated in Exhibit D represent the composition of the total not-to-exceed budget for this Agreement. In the performance of the scope of

services to be provided under this Agreement, Consultant may request to reallocate the expenses listed in Exhibit D among Consultant's own personnel (not including subconsultants) and among the various Tasks and Other Direct Costs identified therein, subject to County's Administrator's written approval. In no event shall the not-to-exceed amount of the Agreement be exceeded.

In no event shall the total amount of the Prime Costs (\$367,596) be exceeded, nor shall the Subconsultant Cost (\$4,000) be exceeded.

The total amount of this Agreement, including all of the services detailed in Exhibits A and A-1, and inclusive of all work of subconsultants, costs, and expenses, shall not exceed \$371,596.00.

Travel and/or mileage expenses, if applicable, shall be paid in accordance with Exhibit B, "Board of Supervisors Policy D-1," incorporated herein and made by reference a part hereof. Travel and mileage reimbursement rates apply to Consultant only and do not apply to Consultant's subconsultant. There shall be no markups allowed on travel or mileage rates for Consultant.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado
Community Development Agency
Long Range Planning Division
2850 Fairlane Court
Placerville, California 95667
Attn.: David Defanti, Assistant Director

or to such other location as County directs.

ARTICLE IV, Changes to Agreement, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE IV

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

ARTICLE VII, Assignment and Delegation, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE VII, 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. Notwithstanding this Article, Consultant is authorized to utilize the specific subconsultant in Exhibit A-1, Additional Scope of Services, for the particular tasks, work and deliverables identified therein. At no time shall County be obligated to pay separately for subconsultant services.

ARTICLE XI, Notice to Parties, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE XI

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

To County:

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

Attn.: David Defanti
Assistant Director

With a copy to:

County of El Dorado
Community Development Agency
Administration and Finance Division
2850 Fairlane Court
Placerville, California 95667

Attn.: Sherrie Busby
Administrative Services Officer
Contract Services Unit

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

ICF Jones & Stokes, Inc.
630 K Street, Suite 400
Sacramento, California 95814

Attn.: Frank D. Freytag

ICF Jones & Stokes, Inc.
630 K Street, Suite 400
Sacramento, California 95814

Attn.: Maggie Townsley

or to such other location at Consultant directs.

ARTICLE XX, Administrator, of the original Agreement is deleted in its entirety and the following Article is added in its place to read as follows:

ARTICLE XX

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

The original Agreement is further amended to add the following new Articles:

ARTICLE XXV

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 XI, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's 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 XXVI

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 XXVII

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 XXVIII

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 XXIX

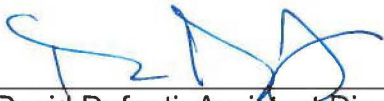
Taxes: Consultant certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Consultant to County. Consultant agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE XXX

Consultant's Project Manager: Consultant designates Maggie Townsley, Project Director, as its Project Manager for this Agreement. Consultant's Project Manager, or County-approved designee, shall be accessible to County's Administrator, or designee, during normal County working hours and shall respond within twenty-four (24) hours to County inquiries or requests. Consultant's Project Manager shall be responsible for all matters related to Consultant's personnel, operations and any subconsultants authorized under this Agreement including, but not limited to (1) assigning qualified personnel to perform the required work and to prepare the deliverables required pursuant to this Agreement; and (2) reviewing, monitoring, training and directing Consultant's personnel and any subconsultants authorized herein.

Except as herein amended, all other parts and sections of Agreement for Services 008D-A-12/13-BOS shall remain unchanged and in full force and effect.

Requesting Administrator and Division Concurrence:

By:  _____ Dated: 2/10/14 _____
David Defanti, Assistant Director
Long Range Planning Division
Community Development Agency

Requesting Department Concurrence:

By:  _____ Dated: 2/12/14 _____
Kimberly A. Kerr, Acting Director
Community Development Agency

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement for Services 008D-A-12/13-BOS on the dates indicated below.

--COUNTY OF EL DORADO--

By: _____

Dated: _____

Board of Supervisors
"County"

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

By: _____

Dated: _____

Deputy Clerk

--ICF JONES & STOKES, INC.--

By:  _____

Frank D. Freytag
Senior Vice President
"Consultant"

Dated: 3/4/14

By:  _____

Mollie Roy
Secretary

Dated: 3/5/14

ICF Jones & Stokes, Inc.

Exhibit A-1

Additional Scope of Services

Village of Marble Valley Specific Plan EIR

To ensure the timely completion of tasks and to avoid potential invoicing problems, ICF is requesting an augmentation to the budget for the Village of Marble Valley Specific Plan EIR. Based on experience to date regarding the public interest in this Project, it is anticipated that additional budget will be necessary to complete the draft environmental document, to respond to public comments on that document, and to facilitate the public meetings during the public review period. It is also anticipated that additional budget will be required for Project management based on the amount of consultation involved in Project management (meetings and conference calls) and delays to the Project schedule, extending the Project duration.

Task 2.0 Project Management and Meetings

Based on the latest schedule and allowing for delays in the traffic model, it is assumed that the draft EIR will be circulated in June 2014. Extrapolating from that date, it is also assumed that the EIR will be finalized and the Notice of Determination (NOD) will be issued in February 2015. An additional 2 months is accounted for in the schedule to accommodate potential further schedule slippage if necessary.

Under this Task:

- ICF Project manager and Project director will attend All-Hands Meetings monthly through June 2014 and as necessary thereafter.
- ICF Project manager and Project director will participate in conference calls.

This Task includes:

- Invoicing
- File organization
- Schedule management
- Tracking documents

Deliverables

- Schedules in MS Project
- Tracking tables in MS Excel
- Additional monthly invoice reports with progress summaries

Task 4.0 Administrative Draft EIR

Nearly three (3) times as many public comments as were anticipated have been received to date. Based on the level of interest by the public and the number of comments received on the Notice of Preparation (NOP), it is anticipated that additional

effort will be necessary to ensure all comments are addressed and the Draft EIR covers all relevant environmental areas of concern expressed by various stakeholders and that the public comment process is fully documented. Additionally, off-site improvements and additional water supply assessment information shall be addressed.

Ensure NOP comments are addressed:

ICF will expend additional effort to ensure concerns pertaining to the following areas that were included in the NOP comments are addressed in the Draft EIR:

- air quality (NOA),
- biology,
- cultural resources,
- utilities,
- public services, and
- traffic.

Address off-site improvements in EIR:

Additional efforts will be required to address potential impacts of off-site improvements to all resource areas. It is assumed that the Applicant will provide the technical analysis.

Document public scoping process in EIR:

It is anticipated that additional efforts will be required to fully document and capture the public comment process. ICF will include in the EIR:

- An appendix consisting of a table of comments with a column indicating where subject is addressed if applicable.
- A discussion of the County's public outreach efforts, including formal public meetings and other outreach efforts by the County.

Water Supply Assessment – Vineyard decision:

To address the higher level of scrutiny for this Project, a supplemental watershed analysis that is compliant with the California Supreme Court's *Vineyard* decision shall be prepared. ICF's subconsultant, Tully & Young, shall conduct research to determine water supply in compliance with the California Supreme Court's *Vineyard* decision. ICF shall incorporate this information into the EIR.

Budget to cover a newspaper notice of the Draft EIR public meetings has been added in other direct costs.

Task 6.0 Respond to Comments

Based on the level of public interest at the scoping meeting, it is anticipated that ICF shall address more comments than the 50 comments assumed in the original scope of work. 132 comments from members of the public were received on the NOP. It is anticipated that at least that number of comments will be received on the EIR.

ICF shall prepare a draft response to comments for review by the County and the Applicant. ICF shall review and catalog additional comments and prepare preliminary responses. It is not anticipated that additional new technical analyses will be required to respond to comments.

Task 7.0 Final EIR

The expected higher volume of comments will entail more effort at the Final EIR stage. It is anticipated that additional minor changes to the Final EIR text will be necessary to clarify or emphasize information, and that additional effort will be necessary to help create a solid administrative record for the County.

The NOD Department of Fish and Wildlife (DFW) filing fee is included in the other direct costs budget.

Task 8.0 Attend Public Meetings

Because there is considerable public interest in this Project and based on experience at the scoping meeting, it is assumed that ICF will assist in the coordination and facilitation of the public meeting. This Task includes coordinating with the County and Applicant, preparing boards and setting up the meeting space, public meeting attendance by the Project director, Project manager, and outreach specialist. Fees for space rental, newspaper notice, and production of boards and other materials are included in the other direct costs budget.

ICF Jones & Stokes, Inc.

Exhibit C

Fee Schedule

Project Role	Rate
Project Director	\$240.61
Project Manager	\$138.84
Project Coordinator – Public	\$ 87.06
CEQA Advisor	\$178.39
Public Outreach	\$159.62
Air Quality	\$166.87
Archaeologist	\$117.48
Minerals	\$166.87
Hazards/Hazmat & Public Services	\$138.84
Hydrologist	\$110.68
Water Resources Planner	\$181.61
Visual Resources	\$119.33
Graphics	\$124.25
FPA	\$62.89

Explanation of Rates

1. Hourly rates include direct labor, benefits, and general and administrative overhead costs.
2. Other Direct Costs:

Subconsultants	10% markup
Non-labor costs	10% markup
Travel, Auto	In accordance with ARTICLE III, Compensation for Services, of this Agreement

ICF Jones & Stokes, Inc.

Exhibit D

Cost Estimate*

ICF Jones & Stokes, Inc.

Task 1.0	Project Initiation	\$	2,331.00
Task 2.0	Project Management and Meetings	\$	32,523.00
Task 3.0	Prepare Project Description and NOP	\$	14,904.00
Task 4.0	Administrative Draft EIR	\$	211,987.00
Task 5.0	Public Draft EIR	\$	22,731.00
Task 6.0	Respond to Comments	\$	35,323.00
Task 7.0	Final EIR	\$	17,277.00
Task 8.0	Attend Public Meetings	\$	20,971.00
Task 9.0	Prepare Notice of Determination	\$	309.00
Labor Total		\$	358,356.00
Other Direct Costs		\$	<u>9,240.00</u>
Total Prime Costs		\$	367,596.00

Subconsultant:

Tully & Young

Task 4.0	Administrative Draft EIR	\$	4,000.00
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Total Proposed Budget Cost Estimate \$ 371,596.00

*All expenses and their distribution among Tasks are estimates only. This Exhibit represents the composition of the total not-to-exceed budget for this Agreement. In the performance of the scope of services to be provided in accordance with this budget, Consultant may request to reallocate the expenses listed herein among Consultant's personnel (not including subconsultants) and among the various Tasks and Other Direct Costs identified herein, subject to County's Administrator's written approval. In no event shall the total amount of the Prime Costs (\$367,596) be exceeded, nor shall the Subconsultant Cost (\$4,000) be exceeded, nor shall the total not-to-exceed amount of the Agreement (\$371,596) be exceeded.