



## City of Ketchum

January 6, 2020

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Amend Contract 20354 with AECOM**

#### Recommendation and Summary

Staff is recommending the council amend Contract 20354 with AECOM and adopt the following motion:

I move to approve the amended Contract 20354 with AECOM

The reasons are as follows:

- During the discussions about the proposed fire station location, concerns were expressed about pedestrian and vehicle circulation and impacts that may occur in the area.
- AECOM, a leading traffic engineering firm, will prepare an analysis to determine if any impacts may occur, and if so, what measure are recommended to address the issues.
- AECOM is currently under contract with the City and an amendment to their contract will facilitate the fire station review.

#### Introduction and History

In December, the City Council discussed the proposed location of the new fire station. During public testimony and Council discussion, concerns were expressed about potential vehicle and pedestrian conflicts caused by volunteers responding to the station and emergency vehicles exiting the station.

AECOM is professional traffic engineering firm with experience in assessing traffic and pedestrian impacts resulting from new development. If impacts are identified, AECOM will recommend measures to mitigate the issues. Staff is recommending the City hire AECOM to evaluate any potential impacts and identify mitigations if necessary.

#### Analysis

AECOM is currently under contract with the City to review the traffic analysis and impacts associated with the PEG hotel application. To perform additional analysis for the fire station, their contract must be amended (Attachment A). The attached amended contract modifies their scope of work and extends the length of the contract.

#### Financial Impact

Attachment B provides the scope of work to be performed along with the proposed cost. The cost is estimated to be \$7,600 for the basic analysis and up to \$3,000 for an in-person all day meeting. Funding is available in the adopted budget.

Attachments:

Proposed amended contract and scope of work

AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT 20354

THIS AGREEMENT made and entered into this \_\_\_ day of \_\_\_\_\_, 2019, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation (hereinafter referred to as "Ketchum") and AECOM, (hereinafter referred to as "Contractor").

RECITALS

1. Ketchum is a municipal corporation duly organized and existing under the laws of the State of Idaho.
2. Ketchum is in the need of the professional services for review of traffic impact studies associated with the Marriott Autograph Hotel proposed in Ketchum Idaho;
3. Contractor has on staff a Professional Engineer registered and licensed with the Idaho Board of Professional Engineers;
4. Contractor will provide services to the City of Ketchum consistent with the services identified in Attachment A.
5. Pursuant to Idaho Code §§ 50-301 and 50-302, Ketchum is empowered to enter into contracts and take such steps as are reasonably necessary to maintain the peace, good government and welfare of the City.
6. Contractor desires to enter into an Agreement with Ketchum to provide such services all as hereinafter provided.

NOW, THEREFORE, the parties hereto covenant and agree as follows:

1. **SCOPE OF WORK:** Contractor agrees to provide those services described in Attachment A and B, as an independent contractor. Contractor shall be responsible for all associated taxes, workers compensation and other related expenses.
2. **AMOUNT AND METHOD OF PAYMENT:** The City agrees to pay Contractor for services rendered under this Agreement in accordance with Attachment A and B.

Contractor shall maintain time and expense records and make them available to the City with payment invoices in a format acceptable to the City for work performed to the date of the invoice. Each invoice shall specify charges as they relate to specific projects. Each invoice shall also specify current billing and previous payments, with a total of costs incurred and payments made to date.

Reimbursable expenses (which shall cover general out-of-pocket expenses telephone charges, copying expenses, overnight or standard mailing expenses, travel-related expenses, and the like) shall be billed to the City at actual cost to Contractor with no mark-up.

All invoices shall be paid by the City within sixty (60) days of receipt of proper invoice. Uncontested invoices paid after sixty days may be subject to a 1.5% per month late charge applied to the outstanding balance, including late charges.

If the services subject to a specific invoice do not meet the requirements of this Agreement as the City may determine, the City shall notify Contractor in writing and provide specific deficiencies in the work that do not meet the requirements. Contractor shall have seven (7) working days to correct or modify

the work to comply with the requirements of the Agreement as set forth in the City's written notice. If the City again determines the work fails to meet the requirements, the City may withhold payment until deficiencies have been corrected to the City's satisfaction or may terminate this Agreement for cause as set forth in Section 19 of this Agreement.

**3. RIGHT OF CONTROL:** The City agrees that it will have no right to control or direct the details, manner, or means by which Contractor accomplishes the results of the services performed hereunder. Contractor has no obligation to work any particular hours or days or any particular number of hours or days. Contractor agrees, however, that its other contracts and services shall not interfere with its performance under this Agreement. Contractor agrees to coordinate project schedules and respective commencements and deadlines with the Director of Planning and Building.

**4. INDEPENDENT CONTRACTOR RELATIONSHIP:** Contractor is not an employee, servant, agent, partner, or joint venture of the City. The City shall determine the work to be done by Contractor, but Contractor shall determine the legal means by which it accomplishes the work specified by the City. This Agreement shall not be construed to create any employer-employee relationship between the City and Contractor.

**5. RECORDS ACCESS AND AUDITS:** Contractor shall maintain complete and accurate records with respect to costs incurred and hours expended under this Agreement. All such records shall be maintained according to generally accepted accounting principles, shall be clearly identified, and shall be readily accessible. Such records shall be available for review by the City representatives for three (3) years after final payment. Copies shall be made available to the City upon request.

**6. FEDERAL, STATE, AND LOCAL PAYROLL TAXES:** Neither federal, state, or local income taxes nor payroll taxes of any kind shall be withheld and paid by the City on behalf of Contractor or the employees of Contractor. Contractor shall not be treated as an employee with respect to the services performed hereunder for federal or state tax purposes. Contractor understands that Contractor is solely responsible to pay, according to law, Contractor's income tax. Contractor further understands that Contractor may be liable for self-employment (Social Security) tax to be paid by Contractor according to law.

**7. LICENSES AND LAW:** Contractor represents that it possesses the requisite skill, knowledge, and experience necessary, as well as all licenses required, if any, to perform the services under this Agreement. Contractor further agrees to comply with all applicable laws, ordinances, and codes of federal, state, and local governments in the performance of the services hereunder.

**8. FRINGE BENEFITS:** Because Contractor is engaged in its own independently established business, Contractor is not eligible for and shall not participate in any employee pension, health, or other fringe benefit plans of the City.

**9. WORKER'S COMPENSATION:** Contractor shall maintain in full force and effect worker's compensation and employer's liability insurance for Contractor and any agents, employees, and staff that Contractor may employ, and provide proof to the City of such coverage or that such worker's compensation insurance is not required under the circumstances.

**10. EQUIPMENT, TOOLS, MATERIALS, OR SUPPLIES:** Contractor shall supply, at its sole expense, all equipment, tools, materials, and/or supplies to accomplish the services to be provided herein.

**11. PROPRIETARY RIGHTS:** All data, materials, reports, maps, graphics, tables, memoranda, and other documents or products developed under this Agreement whether finished or not shall become the

property of the City, shall be forwarded to the City at its request, and may be used by the City for any business or municipal purpose. The City agrees that if it uses products prepared by Contractor for purposes other than those intended in this Agreement, it does so at its sole risk.

**12. CONFIDENTIALITY:** Contractor agrees to maintain confidentiality of all work product produced under this Agreement, including both interim and draft, materials, reports, maps, graphics, tables, memoranda, and other documents unless and until the City signifies its written approval that such work product may be published as final work product subject to the public records laws of the state of Idaho. The City reserves the right to distribute the final work product as it sees fit provided that Contractor may use final reports as approved and adopted by the Ketchum City Council in the marketing of its firm.

**13. TERM OF AGREEMENT:** This Agreement shall commence as of the effective date specified in this Agreement and shall remain in effect for one (1) year from the effective date of the Contract Amendment unless terminated by either party as set forth in this Agreement.

**14. ENTIRE AGREEMENT:** This Agreement, along with any and all exhibits and appendix attached hereto and incorporated herein by reference, contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

**15. GENERAL ADMINISTRATION AND MANAGEMENT:** The Director of Planning and Building or his/her designee shall be the City's representative and shall oversee and approve all services to be performed, coordinate all communications, review and approve all invoices, and carry out any and all tasks as may be required under this Agreement.

**16. CHANGES:** The City reserves the right to make changes from time to time in the scope of services to be performed hereunder. Such changes, including any increase or decrease in Contractor's compensation, which are mutually agreed upon by and between the City and Contractor, shall be incorporated in written amendments to this Agreement.

**17. AMENDMENTS:** This Agreement may be amended only in writing upon mutual agreement of both the City and Contractor.

**18. ASSIGNMENT:** It is expressly agreed and understood by the parties hereto that Contractor shall not have the right to assign, transfer, hypothecate, or sell any of its rights under this Agreement except upon the prior express written consent of the City.

**19. TERMINATION OF AGREEMENT:**

**1. FOR CAUSE DUE TO BREACH:** If Contractor shall fail to fulfill its obligations in compliance with the scope of work or if Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor and specifying the effective date thereof at least fifteen (15) days before the effective date of such termination. If this Agreement is terminated for cause, Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, Contractor shall not be relieved of liability to the City by virtue of any breach of this Agreement by Contractor, and the City may withhold any payments to Contractor for the purpose of

setoff until such time as the exact amount of damages due the City from Contractor is determined. Contractor shall also provide the City all products or works of consulting generated to date of termination.

2. **TERMINATION BY THE CITY:** The City reserves the right to terminate this Agreement at any time, for any reason, by giving at least fifteen (15) days' notice in writing to Contractor. If this Agreement is terminated by the City as provided herein, Contractor shall be paid for the work performed prior to termination, less payment or compensation previously made. Contractor shall also provide the City all products or works related to this Project generated to date of termination.

3. **TERMINATION:** The obligation to provide further services under this Agreement may be terminated by Contractor upon thirty (30) days' written notice. Such termination shall be based upon substantial lack of performance by the City under the terms and conditions of this Agreement when said substantial lack of performance is through no fault of Contractor. If this Agreement is terminated by Contractor, Contractor shall be paid for services rendered and for reimbursable expenses incurred to the date of such termination.

20. **NOTICES:** Any and all notices required to be given by either of the parties hereto, unless otherwise stated in this Agreement, shall be in writing and be deemed communicated when mailed in the United States mail, certified, return receipt requested, addressed as follows:

To CITY:                   City Administrator  
                                  City of Ketchum PO Box 2315  
                                  Ketchum, ID 83340

To CONTRACTOR:       Lori L. Labrum, P.E., PTOE  
                                  Associate Vice President  
                                  AECOM Technical Services, Ind.  
                                  756 East Winchester Street, Suite 400  
                                  Salt Lake City, UT 84107

21. **DISCRIMINATION PROHIBITED:** In performing the services required herein, Contractor agrees not to discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or handicap. Violation of this section shall constitute a material breach of this Agreement and deemed grounds for cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

22. **STANDARD OF SERVICE:** Contractor shall provide services as described in this Agreement. These services will be performed in accordance with generally accepted professional practices for the scope of this project. Contractor makes no other warranty either expressed or implied.

23. **INDEMNIFICATION:** Contractor agrees to indemnify, defend, and hold harmless the City and its officers, agents, employees and City Council from and against all claims, losses, actions, or judgments for damages or injury to persons or property arising out of or resulting from the negligent performances or activities of Contractor, Contractor's agents, employees, or representatives under this Agreement.

24. **INSURANCE:** Contractor agrees to obtain and keep in force during its acts under this Agreement a professional liability insurance policy with coverage limits over \$1,000,000.00 per occurrence. Certificate of proof of insurance will be provided to the City. Contractor shall provide proof of coverage as set forth above to the City before commencing its performance as herein provided and shall require insurer to

notify the City ten (10) days prior to cancellation of said policy. Deliver certificates of insurance and endorsements required by this Article to:

City of Ketchum  
Attn: City Administrator  
PO Box 2315  
Ketchum, ID 83340

**25. NONWAIVER:** Failure of either party to exercise any of the rights under this Agreement or breach thereof shall not be deemed to be a waiver of such right or a waiver of any subsequent breach.

**26. APPLICABLE LAW:** Any dispute under this Agreement or related to this Agreement shall be decided in accordance with the laws of the state of Idaho.

**27. SEVERABILITY:** If any part of this Agreement is held unenforceable, the remaining portions of the Agreement will nevertheless remain in full force and effect.

**28. ATTORNEY FEES:** Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to costs and reasonable attorney fees as determined by a court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination, or forfeiture of this Agreement.

**29. EFFECTIVE DATE:** The effective date of this Agreement shall be the day this Agreement is signed by the City.

**30. DISPUTES:** In the event that a dispute arises between the City and Contractor regarding application or interpretation of any provision of this Agreement, the aggrieved party shall promptly notify the other party to this Agreement of the dispute within ten (10) days after such dispute arises. If the parties shall have failed to resolve the dispute within thirty (30) days after delivery of such notice, the parties agree to first endeavor to settle the dispute in an amicable manner by non-binding mediation before resorting to litigation. Should the parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation, each party shall have the right to pursue any rights or remedies it may have at law or in equity.

**31. SUCCESSORS IN INTEREST:** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereby and their respective successors and assigns.

**32. MISCELLANEOUS:** Contractor has not been retained to supervise, direct, or have control over any contractor's work. Contractor specifically does not have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by contractor(s) for safety precautions and programs to the work of contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes, or orders applicable to contractor(s) furnishing and performing their work. Accordingly, Contractor can neither guarantee the performance of the construction contracts by contractor(s) nor assume responsibility for the failure of contractor(s) to furnish and perform their work in accordance with the contract documents.

**33. CONFLICT OF INTEREST:** Contractor shall disclose any conflict of interest to the City that may arise or exists with any of Contractors current or former employers, clients, contractors or the like of or regarding any work, information, data, that may relate to the subject matter whether it is within the Contractor's scope

of work or not. In the event a conflict of interest is identified, Contractor shall immediately disclose the conflict and the City may, in its sole discretion determine that this Agreement will terminate, or agree to measures to address the conflict and limit Contractor's scope of work to avoid the conflict. Failure to promptly disclose a conflict of interest constitutes Contractor's breach of this Agreement.

IN WITNESS WHEREOF, THE CITY and Contractor have executed this Agreement as of the effective date specified above.

CITY OF KETCHUM

CONTRACTOR

By: \_\_\_\_\_  
Neil Bradshaw  
Mayor

By: \_\_\_\_\_  
Lori L. Labrum, P.E., PTOE

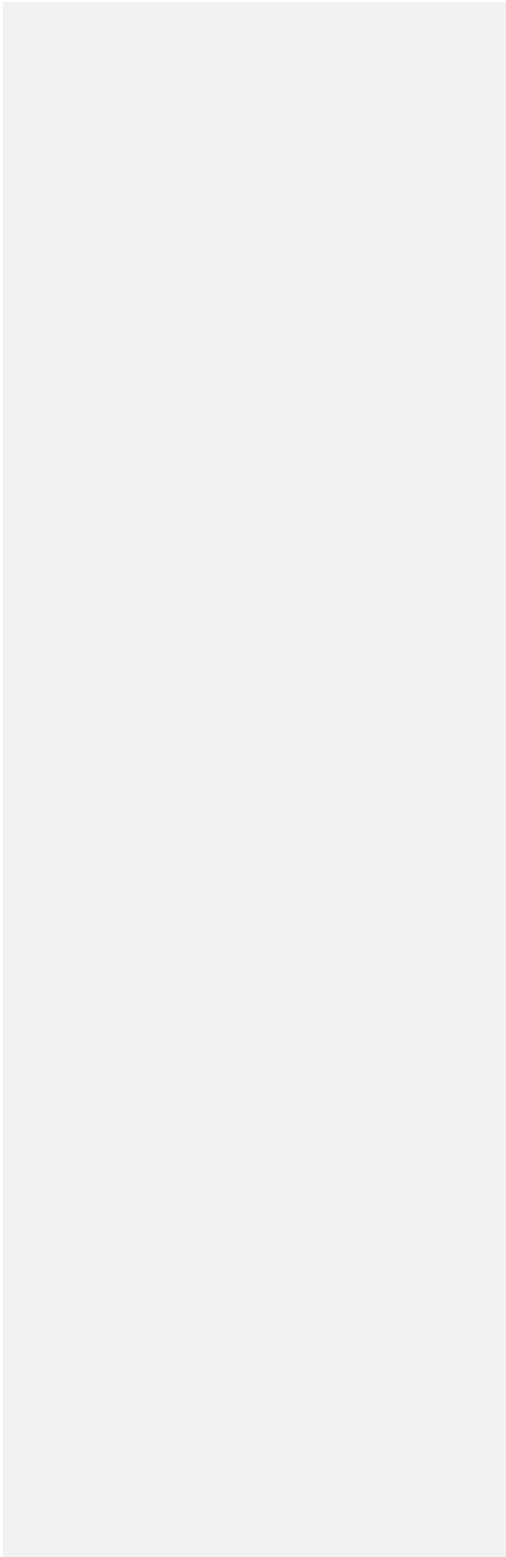
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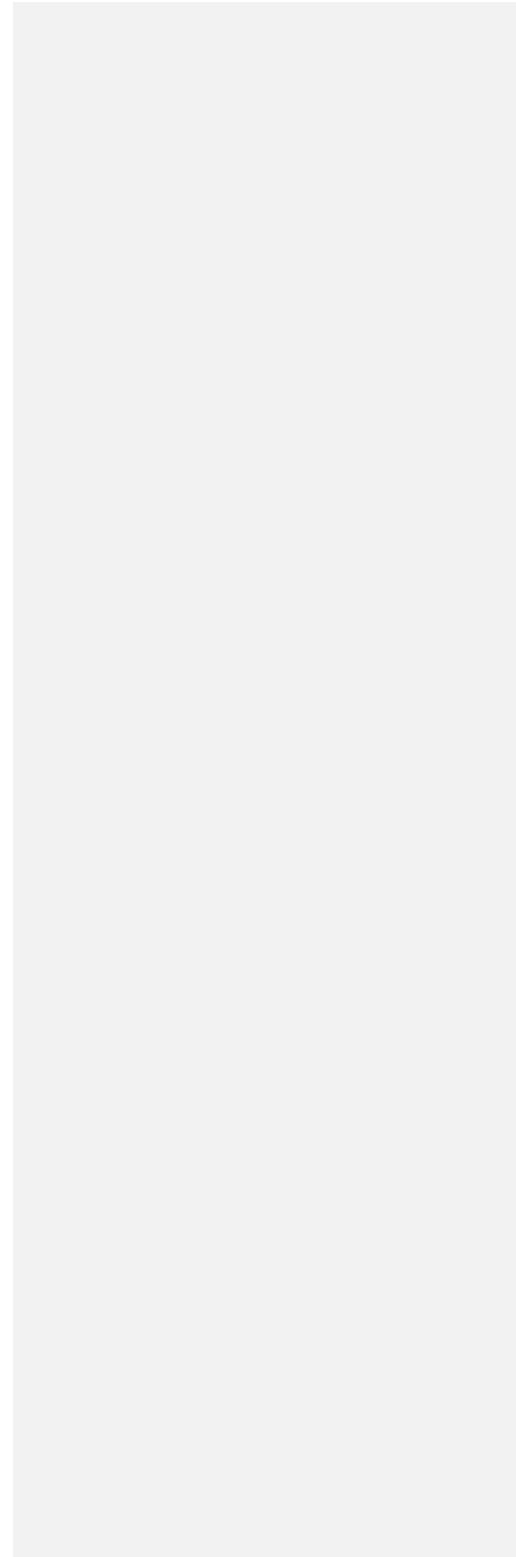
By: \_\_\_\_\_  
Robin Crotty  
City Clerk

DATE: \_\_\_\_\_



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Attachment A





ATTACHMENT B

AECOM will provide services on an as-needed basis as determined by Ketchum. Prior to beginning any project, Ketchum will review the scope of work with AECOM, and AECOM will provide Ketchum with a not-to-exceed or estimated cost for that project.

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**To:** John Gaeddert, PhD, City of Ketchum**CC:** Nick Blayden, PEG Development  
Kordel Braley, PE, PTOE, AECOM

# Memo

Thank you for inviting AECOM to submit this scope of work and cost estimate to perform an independent review of a traffic impact study (TIS) for Marriott Autograph Hotel in Ketchum, ID. As you are continually faced with development pressure, there is a need to carefully evaluate traffic impacts and ensure that appropriate mitigation measures are implemented. AECOM staff have participated in hundreds of traffic studies in several states around the country, including peer reviews, and we're excited to offer our services to your city. Please let us know if you need more details on our qualifications or completed project work.

## 1.0 Assumptions

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AECOM assumes that it will provide a technical, third party review of all aspects of the developers TIS, and will point out, where applicable, differences in professional opinion between the developers traffic engineer and us. We assume that city staff will make all final decisions regarding assumptions and the acceptance of the developers TIS.

All meetings discussed in our scope of work are assumed to occur by telephone or Webex. In person meetings can be accommodated but will require contract modification to reimburse AECOM for travel expenses.

## 2.0 TIS Review Tasks

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AECOM will conduct the following tasks for the TIS review:

- AECOM will review the traffic engineer's data collection, trip generation, distribution, and assignment, and provide feedback to the traffic engineer.
- AECOM will review the capacity analysis of all existing and near-term years. This will include reviewing the traffic engineer's traffic models.
- AECOM will review growth assumptions and design-year capacity analyses.
- Draft TIS Review – AECOM will review the draft TIS including all recommended off-site improvements and the capacity analyses for these improvements.
- Final TIS Review – AECOM will review the final TIS after the traffic engineer has addressed any remaining issues.

- AECOM will provided a memo documenting its review of the TIS. This will include a discussion of any differences of professional opinion, as well as a summary suitable for inclusion in a staff report to city administration staff, planning commission, and/or city council.

### 3.0 Project Staff

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Lori L Labrum, P.E., PTOE will serve as Principal-in-Charge for the project. She will provide overall guidance and review and should be contacted with any questions or concerns about quality and progress of the work. Kordel Braley, P.E., PTOE will serve as Project Manager, directing the technical work on the project. He will be your contact on details related to technical matters and, together with other AECOM staff, will complete the technical work on this project.

### 4.0 Budget

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This project will be completed as a lump sum contract. The project cost is \$7,150. This cost estimate is based on the analysis tasks outlined above and does not include representation at additional meetings or public hearings because the labor hours required to prepare for and attend those can vary widely. Representation is available on an hourly basis.

We recognize that due to the complexity of this project, it is possible that additional iterations could be required. If, during the course of our work, it becomes apparent to us that the project will require more time than initially budgeted, we will notify you before incurring.

Sincerely,



Lori L. Labrum, PE, PTOE  
Associate Vice President  
AECOM Technical Services, Inc.

Accepted by:



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Mayor, Neil Bradshaw

6/3/2019

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Date

**Project name:** Traffic Engineering  
Assistance – **Modification 2**

**Project ref:** City of Ketchum

**From:** Lori Labrum, PE, PTOE

**Date:**  
December 23, 2019

**To:** Suzanne Frick, City of Ketchum

**CC:** Kordel Braley, PE, PTOE, AECOM

# Memo

Thank you for inviting AECOM to submit this scope of work and cost estimate to perform Contract Modification #2 of the traffic engineering support contract with the City of Ketchum. This is the second contract modification to the original contract executed June 24, 2019. The purpose of this contract modification is to assist the City in reviewing potential traffic and safety impacts to the roadway system due to the proposed fire station on Saddle Road approximately 400 feet north of Warm Springs Road.

## 1.0 Tasks

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AECOM will conduct the following tasks for this traffic review

- Review city-furnished data including: Traffic data, speed study, transit ridership data, heat map of calls for service as well as by time of day and by season, fire station staffing plan, bicycle master plan, planning and zoning ordinance relating to this fire station, typical timing of between when a call is made to when the apparatus leaves the fire station.
- Provide update to city staff before January 6, 2020 City Council meeting including a listing of ideas to be considered by AECOM. This update will be provided via teleconference or e-mail.
- Analyze existing conditions and make formal recommendations that could include operational, infrastructure, and/or educational in nature. Specific focus areas of the analysis will include the proposed traffic signal in front of the fire station on Saddle Road, Warm Springs Road/Saddle Road, Lewis Street/Warm Springs Road, 10<sup>th</sup> Street/Warm Springs Road, and Warm Springs Road/6<sup>th</sup> Street/Main Street. Particular attention will be paid to pedestrian/trail crossings. The analysis will consider both in-bound volunteer traffic and out-bound apparatus traffic.
- AECOM will prepare a technical memorandum outlining the results of the analysis, conclusions, and recommendations.
- AECOM will participate in up to three progress meetings via teleconference with city staff/development team.

## 2.0 Optional Tasks

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AECOM can provide the following tasks at the request of the city. However, these tasks are not included in the proposed fee or schedule.

- In-person attendance at meetings and/or public hearings.
- Conceptual and/or final design services for recommended mitigation measures.

### 3.0 Project Staff

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Lori L Labrum, P.E., PTOE will serve as Principal-in-Charge for the project. She will provide overall guidance and review and should be contacted with any questions or concerns about quality and progress of the work. Kordel Braley, P.E., PTOE will serve as Project Manager, directing the technical work on the project. He will be your contact on details related to technical matters and, together with other AECOM staff, will complete the technical work on this project.

### 4.0 Budget

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The base cost for Modification 2 is \$7,600. The cost for in-person attendance at up to one-days' worth of meetings is \$3,000. The cost for design support will be based on the scope of work.

If, during the course of our work, it becomes apparent to us that the project will require more time than initially budgeted, we will notify you in writing before incurring additional costs.

Sincerely,



Lori L. Labrum, PE, PTOE  
Associate Vice President  
AECOM Technical Services, Inc.