Buckman Direct Diversion Project

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Date: **March 7, 2013**

To: **Buckman Direct Diversion Chairperson and Board**

From: **Erika Schwender, Interim BDD Facilities Manager** ES

Via: **Brian Snyder, P.E., Utilities Director**

Subject: **Request for approval of Amendment No.19 to the Professional Services Agreement between CDM Smith (formerly Camp Dresser McKee) and the Buckman Direct Diversion Board to provide assistance with the renewal process of the Sediment Return NPDES Permit for the amount of $40,069.00 plus NMGRT or $42,873.83 including NMGRT**

Background and Discussion:

This contract amendment would modify the existing contract between CDM Smith (formerly Camp Dresser McKee) and the Buckman Direct Diversion Board (# 05-0227 and originally approved by the BDD Board on 04/13/2005) and provide additional funds allowing staff to recruit CDM for assistance with the NPDES permit renewal process. This contract amendment would be in the amount of $40,069 plus NMGRT or $42,873.83 including NMGRT.

Funding:

Funding for the above mentioned activities are available in line item 7280000.510300.

Recommended Action:

Staff would like to request approval of the above mentioned contract amendment in the amount of $40,069.00 plus NMGRT or $42,873.83 including NMGRT.

CDM Smith

Memorandum

To: *Rick Carpenter – BDD Project Manager*

From: *Mark Ryan – CDM Smith Project Manager*
Paul Karas – CDM Smith Client Service Manager

Date: *February 26, 2013*

Subject: *BDD Project – CDM Smith Amendment 19*

The BDD Project received the only National Pollutant Discharge Elimination System (NPDES) for discharge of sediments ever issued by EPA Region 6. Due in large part to this unique status, the permit has no effluent limits associated with it. However, it does have an extensive list of monitoring requirements. The conditions of this permit reflect EPA's strategy for new permits: collect data for the first permit (5 years) and then use that data as to inform the development of the permit when it is renewed. The NPDES Permit will expire in November 2013. Permit renewal applications should be submitted 180 days prior to the expiration date.

In developing the NPDES Permit renewal application, it is important to use monitoring data that has been collected over the first permit period to develop the application. This NPDES permit has been used to avoid the environmental impacts and onerous costs of handling, transporting and disposing of larger river sediment removed at the BDD facility near the Rio Grande. As such, the BDD has requested CDM Smith's assistance in developing and supporting the permit renewal process as reflected in Task E18 of Amendment 19.

The upper limit budget for Task E18 is proposed as $40,069.00 (exclusive of NMGRT) which would increase the contract budget upper limit to $10,484,046.00.

Please let us know if you have any questions on this material.

City Clerk Contract No._____
A/E Job No._____

NINETEENTH AMENDMENT TO ENGINEERING SERVICES AGREEMENT (MASTER AGREEMENT) (Negotiated Owner/Consulting Engineer Agreement)

(Name of Project): **Buckman Direct Diversion (the "Project")**

THIS NINETEENTH AMENDMENT ("Nineteenth Amendment"), is made and entered into on the date last entered between the signatories hereto, by and between the Buckman Direct Diversion Board (or BDD Board) and Camp Dresser & McKee Inc., a Massachusetts corporation (or Engineer), hereinafter referred to as the "Engineer."

WITNESSETH:

WHEREAS, the City and County executed a Joint Powers Agreement effective March 7, 2005 ("JPA") that created the BDD Board to develop and maintain the Buckman Direct Diversion Project; and

WHEREAS, the City of Santa Fe, New Mexico, a municipal corporation ("City") and Engineer executed a City of Santa Fe Engineering Services Agreement ("Master Agreement") (Negotiated Owner/Consulting Engineer Agreement) effective upon approval by the Santa Fe governing body on April 13, 2005 (hereinafter the "O/C Agreement"); and

WHEREAS, the BDD Board was duly constituted on August 11, 2005, in accordance with Section 5 of the JPA, and became empowered to execute, among other things, amendments to the O/C Agreement and to execute other agreements pertaining to Project, including the DB Contract; and

WHEREAS, the Owner of the Project is the Buckman Direct Diversion Board; and

WHEREAS, the BDD Board and Engineer have entered into a First Amendment to the O/C Agreement on November 4, 2005; a Second Amendment to the O/C Agreement on February 23, 2006; a Third Amendment to the O/C Agreement on October 17, 2007; a Fourth Amendment to the O/C Agreement on February 1, 2008; a Fifth Amendment to the O/C Agreement on March 6, 2008; a Sixth Amendment to the O/C Agreement on July 10, 2008; a Seventh Amendment to the O/C Agreement on September 11, 2008; an Eighth Amendment to the O/C Agreement on December 18, 2008; a Ninth Amendment to the O/C Agreement on May 7, 2009; a Tenth Amendment to the O/C Agreement on May 7, 2009; an Eleventh Amendment to the O/C Agreement on October 1, 2009; a Twelfth Amendment to the O/C Agreement on April 1, 2010; a Thirteenth Amendment to the O/C Agreement on April 9, 2010; a Fourteenth Amendment to the O/C Agreement on July 23, 2010; a Fifteenth Amendment to the O/C Agreement on July 23, 2010; a Sixteenth Amendment to the O/C Agreement on August 5, 2010; a Seventeenth Amendment to the O/C Agreement on August 16, 2010; and an Eighteenth Amendment to the O/C Agreement on May 18, 2011.

WHEREAS, the Owner and Engineer hereto desire to further amend the O/C Agreement, as provided herein; and

WHEREAS, the parties desire to amend the O/C Agreement in order to assist the BDD Board in renewing its National Pollutant Discharge Elimination System (NPDES) Permit for the sediment return discharge as set forth in Attachment A, "NPDES Permit Renewal Support Services" to this Nineteenth Amendment, and as otherwise provided herein.

NOW, THEREFORE, in consideration of the promises and covenants herein, the parties hereto agree as follows:

1. All terms and provisions of the existing O/C Agreement and the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth and Eighteenth Amendments shall govern the rights and liabilities of the parties under this Nineteenth Amendment, and shall be deemed incorporated by reference as part of this Nineteenth Amendment, except as expressly modified herein.

2. The scope of services, compensation and schedule of amendments relating to this Nineteenth Amendment are provided in Exhibits A, B, and C hereto, the O/C Agreement and the First, Second, Third, Fourth, Fifth, Sixth, Seventh Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth and Eighteen Amendments are modified accordingly.

3. This Nineteenth Amendment shall not become binding or effective until approved and executed by the parties hereto as shown on the attached signature page.

IN WITNESS WHEREOF, the BDD Board and Engineer have executed this Nineteenth Amendment as of the latest day identified below.

Buckman Direct Diversion Board created pursuant to the terms of that Certain Joint Powers Agreement between the City of Santa Fe and County of Santa Fe effective March 7, 2005.

By: _____

Commissioner Kathy Holian
Chair of the Buckman Direct Diversion Board

Date of Execution by Chair of BDD Board: _____

Engineer:
CDM Smith Inc. (ENGINEER)

By: _____
Paul Karas, Associate
Authorized Representative

By: _____
Mark Ryan, Associate
Project Manager

Date: _____

New Mexico Engineer Certificate No. 6235

State Taxation and Revenue Department Taxpayer Identification Number: CRS# 01-0147230-00-8

Federal Taxpayer Identification Number:
04-247-3650

City of Santa Fe Business Registration Number:
07-27945

APPROVED AS TO FORM:

By: Nancy Long
Nancy Long
Buckman Direct Diversion Board Counsel

City of Santa Fe:

_____
Dr. Melville Morgan
Director Finance Department

_____
Business Unit/Line Item

ATTEST:

_____
Yolanda Y. Vigil
City Clerk

File Date: _____

EXHIBIT A
NINETEENTH AMENDMENT
SCOPE OF SERVICES

Add the following new Task:

Task E18 - NPDES Permit Renewal Support Services

Subtask E18A: Kick-Off Meeting

Scope: Hold a kick-off meeting with the BDD managers. The purpose of the meeting is to understand the BDD management's concerns with the existing NPDES Permit, what changes should be requested in the permit application, to consolidate and analyze existing data, and to finalize the strategy for obtaining the renewed permit.

Deliverables:

- Meeting agenda
- Meeting notes
- Memorandum describing strategy for permit acquisition

Assumptions:

- Meeting will be held at Buckman Regional Water Treatment Plant
- The Engineer's Client Service Manager, Permitting Manager, and one staff engineer will participate in the meeting

Subtask E18B: Permit Application Preparation Project Meeting

Scope: The development of the permit application is expected to require close coordination with BDD management and staff. Some of the coordination will be through phone calls and emails, but there will be the need to meet as a group to discuss aspects of the data and permit application. During the development of the original NPDES Permit application, we found that meeting with NMED was productive and important to the development of permit conditions. The meetings with NMED are expected to occur after analysis of the monitoring data, after the development of the draft permit application, and associated with the review of the draft permit. One of these meetings may be a tour of the BDD facilities. We anticipate meeting with NMED and requesting their assistance in working with EPA to develop the permit. Finally, we anticipate that a meeting with EPA may be required.

Deliverables:

- Meeting agendas
- Meeting notes

Assumptions:

- Four meetings will be held at Buckman Regional Water Treatment Plant
- Three meetings with NMED will be held; one as a tour of the BDD facility and two at NMED offices in Santa Fe.

- One meeting with EPA via conference call
- The Engineer's Permitting Manager will participate in all meetings; Engineer's staff engineer will participate in no more than 3 meetings

Subtask E18C: Permit Application Preparation Data Collection and Analysis

Scope: The purpose of this task is to collect, compile, and analyze all of the BDD monitoring data that have been collected though the permit term. The data analysis will identify monitoring requirements in the original permit that should be modified based on the data collected. For example, if the upstream and downstream turbidity measurements have been within 10 percent of each other for 4 years, perhaps only turbidity needs to be measured once a week instead of daily. We will also complete the reasonable potential calculations to estimate what effluent limits may be included in the new permit and if the BDD Project can meet those without treatment.

Deliverables:

- Draft and final technical memorandum describing data analysis and recommendations for changes to request in the NPDES Permit monitoring requirements

Assumptions:

- Monitoring data will be provided in spreadsheets in electronic format
- BDD will provide all monitoring data collected to date at the beginning of the task, in electronic format
- Comments on the draft technical memorandum will be provided within 2 weeks of submittal

Subtask E18D: Draft Permit Renewal Application

Scope: Provide the draft permit renewal application and all attachments to BDD for review. Comments from BDD will be incorporated into the application and attachments prior to submittal to EPA.

Deliverables:

- Draft NPDES Permit Renewal Application

Assumptions:

- One of the project meetings in Subtask E18B will be used to provide the opportunity for the Engineer to describe the contents of the draft application and answer any questions from BDD
- One NMED project meeting from Subtask E18B will be used to discuss the permit application with NMED
- Five hard copies and one electronic copy of the draft permit application will be submitted
- BDD will review and provide comments within two weeks of the draft submittal

Subtask E18E: Final Permit Renewal Application

Scope: Finalize the permit renewal application and all attachments based on BDD review comments and question to the EPA.

Deliverables:

- Final NPDES Permit Renewal Application

Assumptions:

- BDD will submit the application provided by Engineer
- BDD will be responsible for any related NPDES application fees
- Five hard copies and one electronic copy of the final permit application will be submitted to BDD

Subtask E18F: Permit Review and Public Hearing - Draft Permit Review and Comment

Scope: Review the draft permit issued by EPA and certification from NMED. Provide comments on the permit that can be submitted to EPA, including data analysis and documentation.

Deliverables:

- Comment on the Draft Permit and certification

Assumptions:

- Comments on the draft permit will require explanation of data analysis completed in Subtask E18C
- Provide recommendations for BDD to prepare the final draft permit

Subtask E18G: Public Hearing

Scope: It is likely that the EPA will hold a public hearing on the NPDES Permit renewal. Engineer will attend the hearing and provide written remarks and/or presentation materials for the hearing if requested by BDD.

Deliverables:

- Written remarks, comments, and presentation materials for the public hearing

Assumptions:

- The public hearing will be held in Santa Fe.
- The Engineer's Permitting Manager will attend the public hearing

Schedule

Work will start on this task once the Notice to Proceed is provided by BDD. The final permit application should be submitted to EPA by June 27, 2013. The schedule for accomplishing the work will be finalized with the strategy during the kick off meeting in Subtask E18A.

Compensation

Work will be performed on a time and materials basis, not to exceed $40,069.00 exclusive of NMGRT, or $42,873.83 including 7% NMGRT.

EXHIBIT B

NINETEENTH AMENDMENT
COMPENSATION

The maximum compensation (Maximum Compensation Limit) that the Engineer may be paid, under the Labor and Expenses for Basic Services, without an additional written amendment, is $40,069.00, exclusive of NMGRT.

All other terms and provisions of "Compensation to Consultant" shall be as provided in the O/C Agreement as amended by the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth and Eighteenth Amendments.

Exhibit C

Buckman Direct Diversion Project

CDM Smith Owner Consultant Contract Amendments

Contract Amendment No.	Title	Date	Amount (w/o NMGRT)
Base Contract	Base Contract	4/15/05	$ 1,465,265.00
First Amendment	Change in Contract Terms	11/3/05	$ -
Second Amendment	Addition of Phases B thru E Work	2/23/06	$ 7,436,118.00
Third Amendment	E6 - Additional Evaluations, Deliverables and Meetings	10/17/07	$ 186,029.00
Fourth Amendment	E7 - Additional Federal Legislative and Funding/Financing Support	1/17/08	$ 96,500.00
Fifth Amendment	B1 - Additional POD Preparation B2 - Additional NPDES Permit Assistance E4 - Additional Capital Budget and Funding Plan E5 - Deletion of Preparation of Owner's Decision Making Plan E6 - Additional Evaluations, Deliverables and Meetings EE5 - Insurance Advisory Review or DB Contract	2/7/08	$ 150,324.00
Sixth Amendment	B7 - NHPA Compliance for Archeological and Historical Sites E6 - Additional Evaluations, Deliverables and Meetings	7/10/08	$ 45,000.00
Seventh Amendment	E6 - Additional Evaluations, Deliverables and Meetings E7 - Develop Owner's Document Control Plan E8 - Develop O&M Contract Services Scope of Work	9/11/08	$ 105,000.00
Eight Amendment	E9 - Aquatic System Monitoring	12/4/08	$ 72,000.00
Ninth Amendment	E10 - Assistance with O&M RFP	6/4/09	$ 20,000.00
Tenth Amendment	E11 - Assistance with Las Campanas Water Supply Alternatives	5/7/09	$ 42,800.00
Eleventh Amendment	E12 - Develop document Control Database	10/1/09	$ 62,119.00
Twelfth Amendment	E13 - Assistance with Rebate Program	4/1/10	$ 25,000.00
Thirteenth Amendment	E14 - Assistance with BS3/4 Parallel Pipeline	4/1/10	$ 27,168.00
Fourteenth Amendment	D4 - BDD O&M Assistance, Staff Hiring and Training Services (addition)	6/3/10	$ 353,925.00
Fifteenth Amendment	D3A - Monitoring and Special Inspections During PATWU	6/3/10	$ 68,110.00
Sixteenth Amendment	E15 - Monitoring of BS3/4 Parallel Pipeline Final Design and Construction	7/5/10	$ 96,255.00
Seventeenth Amendment	E16 - Monitoring and Reporting of Water Quality for the Sediment Return NPDES Permit	8/16/10	$ 48,500.00
Eighteenth Amendment	E16 - Monitoring and Reporting of Water Quality for the Sediment Return NPDES Permit	5/18/11	$ 143,864.00
Modification of task limits	Tasks E7, E11, E13, E14, E15, E16 and D3; modification of upper limits	10/16/12	$ (54,786.09)
Nineteenth Amendment	E18 - NPDES Permit Renewal Support Services; and budget adjustments	Proposed	$ 40,069.00
Total Contract and Amendment Amount			$ 10,429,259.91