

Attachment B

**AMENDMENT NO. 2
TO STANDARD AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
SMITH & ENRIGHT LANDSCAPING, INC.**

THIS AMENDMENT NO. 2 to Standard Agreement No. A-15018 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Smith & Enright Landscaping, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Standard Agreement No. A-15018 with County on November 5, 2020 (hereinafter, "Agreement") to provide services for the litter abatement program to address illegal dumping of household, commercial, and industrial waste items on County roads and public lands (hereinafter, "services") through October 31, 2023 for an amount not to exceed \$750,000 with the option to extend the Agreement for two (2) additional one (1) year period(s); and

WHEREAS, the provisions of the Agreement require an update; and

WHEREAS, the County has a continued need for services; and

WHEREAS, additional time is necessary to allow CONTRACTOR to continue to provide the services required by the County; and

WHEREAS, the Parties wish to amend the Agreement to update the provisions and to extend the term one (1) additional year to October 31, 2025 with no associated dollar amount increase to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 2.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Section 3.01 of Paragraph 3.0, "Term of Agreement", to read as follows:

The term of this Agreement is from November 1, 2020 to October 31, 2025, unless sooner terminated pursuant to the terms of this Agreement.

2. Amend Section 9.03, "Insurance Coverage Requirements", of Paragraph 9.0, "Insurance Requirements", to read as follows:

Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Auto Liability Coverage: must include motor vehicles, including scheduled, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers' Compensation Insurance: if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: Professional liability insurance coverage is required if the CONTRACTOR providing a professional service regulated by the state. Examples of service providers regulated by the state are insurance agents, professional architects and engineers, doctors, certified public accountants, lawyers, etc. However, other professional contractors, such as computer or software designers, technology services, and services providers such as claims administrators, should also have professional liability. If in doubt, consult with your risk or contract manager.)

If the CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the CONTRACTOR.

3. Amend Section 9.04, "Other Requirements", of Paragraph 9.0, "Insurance Requirements", to read as follows:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Additional Insured Status:

The County of Monterey, its officers, officials, employees, and volunteers are to be covered as additional insureds on the commercial general liability policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage shall be provided in the form of an endorsement to the CONTRACTOR's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

Primary Coverage:

For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects to 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 CONTRACTOR's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Waiver of Subrogation:

CONTRACTOR hereby grants to County a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the County by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's Contract Administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the

information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

4. In all places within the Agreement, any reference to County's email address of PWFP-Finance-AP@co.monterey.ca.us for invoicing, is hereby replaced with PWFP-Finance-AP@countyofmonterey.gov.
5. In all places within the Agreement, any reference to the Agreement's Multi-Year Agreement (MYA) number is deemed to be MYA #3200*5442.
6. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
7. This Amendment No. 2 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
8. The recitals to this Amendment No. 2 are incorporated into the Agreement and this Amendment No. 2.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

Debra R. Wilson, Contracts/Purchasing Officer

By: Debra Wilson

Its: Debra R Wilson

(Print Name and Title)

Date: 9/5/2024 | 8:56 AM PDT

Approved as to Form

Office of the County Counsel

Susan K. Blitch, County Counsel

By: Michael J. Whilden

Michael J. Whilden

Deputy County Counsel

Date: 9/4/2024 | 10:25 AM PDT

Approved as to Fiscal Provisions

Rupa Shah, Auditor-Controller

By: Jennifer Forsyth

Its: Auditor-Controller Analyst II

(Print Name and Title)

Date: 9/5/2024 | 8:36 AM PDT

Approved as to Indemnity and Insurance Provisions

Office of the County Counsel-Risk Management

Susan K. Blitch, County Counsel

By: David Bolton

David Bolton

Risk Manager

Date:

CONTRACTOR*

Smith & Enright Landscaping, Inc.

By: James Smith

Its: James Smith, President

(Print Name and Title)

Date: 9/3/2024 | 10:11 AM PDT

By: Richard A. Enright

Its: Richard A. Enright, Treasurer

(Print Name and Title)

Date: 9/4/2024 | 8:07 AM PDT

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.