

Attachment A

**AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
MNS ENGINEERS, INC.**

THIS AMENDMENT NO. 1 to Professional Services Agreement No. A-14989 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and MNS Engineers, 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 Professional Services Agreement No. A-14989 with County on October 16, 2020 (hereinafter, "Agreement") to provide construction management services (hereinafter, "services") for the Nacimiento Lake Drive Bridge Replacement Project at San Antonio River, County Bridge No. 449, State Bridge No. 44C-009 (hereinafter, "Project") through October 13, 2023 for an amount not to exceed \$1,234,059.07; and

WHEREAS, the original start of the construction season for 2022 was delayed due to a colony of State threatened tricolored blackbirds nesting at the Project site; and

WHEREAS, a third season of construction for 2023 is necessary to allow the CONTRACTOR to provide additional services for inspecting and managing completion of the Project; and

WHEREAS, due to utility relocation delays which delayed the bridge removal timeline, the completion of construction of the new bridge and removal of the existing bridge was delayed from the end of September 2022 out to September 2023; and

WHEREAS, Project closeout and plant establishment have yet to be completed for the Project; and

WHEREAS, provisions of the Agreement require an update; and

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

WHEREAS, additional time and funding are necessary to allow CONTRACTOR to continue to provide the services required by the County for completion of the Project; and

WHEREAS, the Parties wish to amend the Agreement to update provisions, extend the term for one (1) additional year to October 13, 2024, and to increase the amount by \$244,184 for a total amount not to exceed \$1,478,243.07 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1.

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

1. Amend the first sentence of Paragraph 1, “Services to be Provided”, to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibits A and A-1 in conformity with the terms of this Agreement.

2. Amend Paragraph 2, “Payments by County”, to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A and A-1, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$1,478,243.07.

3. Amend the first sentence of Paragraph 3, “Term of Agreement”, to read as follows:

The term of this Agreement is from October 13, 2020 to October 13, 2024, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, “Additional Provisions/Exhibits”, to add “Exhibit A-1 – Cost Proposal for Third Construction Season Only”.

5. Amend Paragraph 11, “Non-Discrimination”, to read as follows:

During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR’s employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

6. Amend Agreement to add Paragraph 16, “Compliance with Applicable Laws”, as follows:

16.01 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services

or those engaged to perform Services under this Agreement as well as any privacy laws including, if applicable, Health Insurance Portability and Accountability Act (HIPAA). CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

16.02 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

16.03 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

7. Amend Agreement to add Paragraph 17, "Consent to Use of Electronic Signatures", as follows:

17.01 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 *et seq.*; California Government Code Section 16.5; and, California Civil Code Section 1633.1 *et seq.* Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

17.02 Counterparts. The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.

17.03 Form: Delivery by E-Mail or Facsimile. Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

8. In all places within the Agreement, any reference to Resource Management Agency (RMA) or RMA – Public Works, Parks and Facilities is hereby replaced with Department of Public Works, Facilities and Parks.

9. In all places within the Agreement, any reference to County's email address of RMA-Finance-AP@co.monterey.ca.us for invoicing, is hereby replaced with PWFP-Finance-AP@co.monterey.ca.us.
10. In all places within the Agreement, any reference to the Agreement's Multi-Year Agreement (MYA) number is deemed to be MYA 3200*5395.
11. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
12. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
13. The recitals to this Amendment No. 1 are incorporated into the Agreement and this Amendment No. 1.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 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: _____

Its: _____
(Print Name and Title)

Date: _____

Approved as to Form

Office of the County Counsel

Leslie J. Girard, County Counsel

By: Michael J. Whilden
DocuSigned by: 0F96C5BE9B0F478...

Michael J. Whilden
Deputy County Counsel

Date: 9/8/2023 | 3:59 PM PDT

Approved as to Fiscal Provisions

Rupa Shah, Auditor-Controller

By: Patricia Ruiz
DocuSigned by: E79EF64E57454F6...

Its: Auditor Controller Analyst I
(Print Name and Title)

Date: 9/11/2023 | 11:48 AM PDT

Approved as to Indemnity and Insurance Provisions

Office of the County Counsel-Risk Management

Leslie J. Girard, County Counsel

By: _____

Its: _____
(Print Name and Title)

Date: _____

CONTRACTOR*

MNS Engineers, Inc.

By: Greg Chelini
DocuSigned by: E28193138F8F4E5...

Its: Greg Chelini, Vice President
(Print Name and Title)

Date: 9/7/2023 | 6:30 PM PDT

By: Miranda Patton
DocuSigned by: 7B2318690B59477...

Its: Miranda Patton, Secretary
(Print Name and Title)

Date: 9/8/2023 | 9:42 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

EXHIBIT A-1 – COST PROPOSAL FOR THIRD CONSTRUCTION SEASON ONLY



County of Monterey Construction Management, Materials Testing and Environmental Services for Nacimiento Lake Drive Bridge Project RFP #10757 (Amendment to Finish Project after delay)

		2023												2024												TOTAL HOURS	HOURLY RATE 2020	HOURLY RATE 2021	HOURLY RATE 2022	HOURLY RATE 2023	HOURLY RATE 2024	Remaining	TOTAL COST								
ROLE	STAFF	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov																	
		Work Window																																							
		Delay										Plant Establishment																													
TASK 1.0: PRE-CONSTRUCTION-CONSTRUCTABILITY REVIEW																																									
Project Manager	Aaron Hilton, PE, QSD/QSP																									0	205.00	211.15	217.48	224.01	230.79		\$0.00								
Resident Engineer	Andrew Borrelli, PE, QSP/QSD																									0	173.00	178.19	183.54	189.04	194.71		\$0.00								
Construction Inspector	Tim Stover*																									0	163.00	167.89	172.93	178.11	183.46		\$0.00								
Office Administration	Laurie Jones																									0	89.80	92.49	95.27	98.13	101.07		\$0.00								
TASK 2.0: CONSTRUCTION																																									
Project Manager	Aaron Hilton, PE, QSD/QSP							12	4	4	4															24	205.00	211.15	217.48	224.01	230.79	5376.22	\$5,376.22								
Resident Engineer	Andrew Borrelli, PE, QSP/QSD							13.5	40	40	40															133.5	173.00	178.19	183.54	189.04	194.71	25237.08	\$25,237.08								
Construction Inspector	Tim Stover*							55	103	172	172	172														674	163.00	167.89	172.93	178.11	183.46	120049.17	\$120,049.17								
Office Administration	Laurie Jones							2	10.5	16	16	16														60.5	89.80	92.49	95.27	98.13	101.07	5936.68	\$5,936.68								
TASK 3.0: POST-CONSTRUCTION																																									
Project Manager	Aaron Hilton, PE, QSD/QSP												4	4												8	205.00	211.15	217.48	224.01	230.79	1792.07	\$1,792.07								
Resident Engineer	Andrew Borrelli, PE, QSP/QSD												100	80												180	173.00	178.19	183.54	189.04	194.71	34027.52	\$34,027.52								
Construction Inspector	Tim Stover*												40													40	163.00	167.89	172.93	178.11	183.46	7124.58	\$7,124.58								
Office Administration	Laurie Jones												60	40												100	89.80	92.49	95.27	98.13	101.07	9812.69	\$9,812.69								
TASK 4.0: PLANT ESTABLISHMENT ENVIRONMENTAL MONITORING																																									
Project Manager	Aaron Hilton, PE, QSD/QSP												2	2	2	2	2	2	2	2						16	205.00	211.15	217.48	224.01	230.79	9664.79	\$9,664.79								
Resident Engineer	Andrew Borrelli, PE, QSP/QSD												16	16	16	16	16	16	16	16						128	173.00	178.19	183.54	189.04	194.71	24741.79	\$24,741.79								
Office Administration	Laurie Jones												8	8	8	8	8	8	8	8						64	89.80	92.49	95.27	98.13	101.07	6421.42	\$6,421.42								
SUB-TOTAL		0	0	0	0	0	57	139	232	232	232	230	150	26	26	26	26	26	26	26	0	0	0	0	0	1428							\$244,184.00								
Direct Expenses																																									
Direct Costs																																									
SUBTOTAL																																									
Subconsultant																																									
Materials Testing/Gamma	Pacific Crest																																								
Source Inspection	ZT Consultants																																								
Environmental Monitoring	Denise Duffy																																								
Swppp/Schedule	LEI																																								
QA Survey	MNS Survey																																								
SUBTOTAL																																\$0.00									
TOTAL COST																																\$244,184									

Notes:

- Hours based on a contract period start date of November 1, 2020 starting with a constructability review and a construction duration of 360 working days starting March 1st, 2021 and a plant establishment period lasting 265 working days.
- Inspection hourly rate may adjust should there be any increase in DIR prevailing wage rates. *
- Hours and costs are an estimate only. Actual hours and costs will be based on contractor's schedule.
- A 5% markup will be added to subconsultant invoice.

MNS Engineers, Inc.
Nacimiento Lake Drive Bridge Replacement Project (RFP #10757)
Department of Public Works, Facilities and Parks