



# Monterey County

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Board Report

Legistar File Number: A 19-041

March 26, 2019

**Introduced:** 3/11/2019

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

- a. Approve Amendment No. 10 to Professional Services Agreement No. A-11914 with EMC Planning Group, Inc. (EMC) to update the water supply and traffic analysis studies for the Moss Landing Community Plan Update Environmental Impact Report (EIR) (PD080541) where the Base budget in the amount of \$415,934 is increased by \$70,278 to \$486,212 and the Contingency budget in the amount \$45,014 is unchanged, which increases the not to exceed amount of \$460,948 by \$70,278 for a Grand Total amount not to exceed \$531,226, with no extension to the term of May 4, 2010 to May 31, 2020; and
- b. Approve Amendment No. 10 to Funding Agreement No. A-11927 with various Project Applicants to allow funding by Monterey County for costs incurred by EMC to update the water supply and traffic analysis studies for the Moss Landing Community Plan Update EIR (PD080541) where the Project Applicants' portion of the Base budget, Contingency budget and Deposits for County Staff services at a total not to exceed amount of \$334,466 is unchanged, and the County's portion of the Base budget in the amount of \$230,622 is increased by \$70,278 to \$300,900 for a Grand Total amount not to exceed \$635,366, with no extension to the term of May 4, 2010 to May 31, 2020; and
- c. Authorize the RMA Deputy Director of Land Use and Community Development, or designee, to execute Amendment No. 10 to Professional Services Agreement No. A-11914, Amendment No. 10 to Funding Agreement No. A-11927 and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts; and
- d. Adopt a Resolution Directing the Auditor-Controller to amend the Fiscal Year (FY) 2018-19 Adopted Budget Fund 001, Appropriations Unit RMA001, to increase appropriations by \$85,124, financed by a decrease in appropriations by \$85,124 in General Fund Contingencies, Fund 001, Appropriations Unit CAO020 for services performed by EMC to complete the Moss Landing Community Plan Update EIR. (4/5th Vote Required)

### RECOMMENDATION:

- a. Approve Amendment No. 10 to Professional Services Agreement No. A-11914 with EMC Planning Group, Inc. (EMC) to update the water supply and traffic analysis studies for the Moss Landing Community Plan Update Environmental Impact Report (EIR) (PD080541) where the Base budget in the amount of \$415,934 is increased by \$70,278 to \$486,212 and the Contingency budget in the amount \$45,014 is unchanged, which increases the not to exceed amount of \$460,948 by \$70,278 for a Grand Total amount not to exceed \$531,226, with no extension to the term of May 4, 2010 to May 31, 2020; and
- b. Approve Amendment No. 10 to Funding Agreement No. A-11927 with various Project Applicants to allow funding by Monterey County for costs incurred by EMC to update the water supply and traffic analysis studies for the Moss Landing Community Plan Update EIR (PD080541) where the Project Applicants' portion of the Base budget, Contingency budget and

- Deposits for County Staff services at a total not to exceed amount of \$334,466 is unchanged, and the County's portion of the Base budget in the amount of \$230,622 is increased by \$70,278 to \$300,900 for a Grand Total amount not to exceed of \$635,366, with no extension to the term of May 4, 2010 to May 31, 2020; and
- c. Authorize the RMA Deputy Director of Land Use and Community Development, or designee, to execute Amendment No. 10 to Professional Services Agreement No. A-11914, Amendment No. 10 to Funding Agreement No. A-11927 and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts; and
  - d. Adopt a Resolution Directing the Auditor-Controller to amend the Fiscal Year (FY) 2018-19 Adopted Budget Fund 001, Appropriations Unit RMA001, to increase appropriations by \$85,124, financed by a decrease in appropriations by \$85,124 in General Fund Contingencies, Fund 001, Appropriations Unit CAO020 for services performed by EMC to complete the Moss Landing Community Plan Update EIR.

SUMMARY/DISCUSSION:

The Moss Landing Community Plan Update is a County of Monterey document. Community Plans must be current in order to: encourage wise growth; identify appropriate locations for new development; assess Public infrastructure, service and facility needs; minimize lengthy discretionary approvals; and provide certainty and predictability for developers, homeowners and others concerned with the future development of the Moss Landing Community Plan Area.

On February 9, 2011, County entered into Professional Services Agreement (PSA) No. A-11914 with EMC Planning Group, Inc. (EMC) to provide services to complete the Moss Landing Community Plan Update Environmental Impact Report (EIR) (hereinafter, Project). In addition, on February 9, 2011, County entered into a multi-party Funding Agreement (FA) No. A-11927 with nine (9) Project Applicants (PAs) to allow for a portion of the funding for completion of the Project. As such, the PAs have agreed to pay their portion of the Project costs, including contingencies and a deposit for County Services, under the FA. Three (3) of the nine (9) PAs: Monterey Bay Aquarium Research Institute (MBARI), San Jose State University (SJSU) Research Foundation and Quinn Delta, LLC (aka Gregg Drilling), have individual projects included in the analysis of the EIR. The County's Resource Management Agency (RMA) - Public Works also has a capital project (Storm Drain Master Plan) in the Moss Landing Community Plan Area and is funding a portion of the costs associated with completion of the Project. As of the writing of this staff report, only Project Applicant: Quin Delta, LLC (aka Gregg Drilling) has an outstanding balance of \$12,846.15 for their portion of the Funding Agreement. The outstanding balance would cover costs associated with the Contingency fund if and/or when it is incurred. Legal action may be taken for a breach of contract under the FA.

Currently, the RMA has identified a need for EMC to provide additional services and technical report updates related to a revised water supply study, updated traffic impact analysis, revisions to the EIR, and an additional meeting to address the updated studies identified in the scope of the PSA for completion of the Project. Revisions to the Draft 2017 Moss Landing Community Plan Update necessitated the additional services discussed above and therefore, required a County-funded increase to the Base budget as proposed in Amendment No. 10.

Amendment No. 10 to both the PSA and FA will increase the amount of the Base budget by \$70,278 for a Grand Total amount not to exceed \$531,226 for the PSA and for a Grand Total amount not to exceed \$635,366 for the FA to allow for these additional services with no extension to the term of the PSA and FA of May 4, 2010 to May 31, 2020. The County's overall portion of the Base budget, as agreed, is 48% (\$231,226) and the Project Applicant's overall portion of the Base budget is 52% (\$254,986).

**Attachment A** provides a summary of the PSA and FA to date.

Budget Committee Meeting

On February 27, 2019, the County of Monterey's Budget Committee supported approval of Amendment No. 10 to the PSA and Amendment No. 10 to the FA in the amount of \$70,278 to be paid to EMC in FY 2018-19. The Budget Committee also supported authorizing partial funding of services using General Fund contingencies in FY 2018-19 for tasks identified in previously approved Amendments No. 6 and 8 to the PSA and FA in the amount of \$14,846 for a Grand Total amount not to exceed \$85,124.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel-Risk Management and the Auditor-Controller's Office have reviewed and approved Amendment No. 10 to the PSA and Amendment No. 10 to the FA as to form and legality, and fiscal provisions, respectively. These items were presented to the Budget Committee on February 27, 2019.

FINANCING:

Pursuant to the terms of the FA with the PAs and County, the expenses of EMC to provide the additional services outlined in Amendment No. 10 and related to the update of the water supply and traffic analysis studies for the Project in the amount of \$70,278 will be funded by the County (Fund 001, Unit 3000, Budget 8172).

Amendments No. 6, 8 and 10 to both the PSA and FA increases the original Base budget by a grand total of \$231,226. Pursuant to the terms of the PSA with EMC and FA with the PAs and the County, the costs for EMC to provide specific services as outlined in Amendment No. 6 - Task A6.3 (\$5,846), Amendment No. 8 - Task A8.2 (\$9,000) and Amendment No. 10 - All Tasks/Costs (\$70,278) as related to the update of the water supply and traffic impact analysis studies for the Project, were not included in the FY 2018-2019 Adopted Budget for RMA-Planning (Fund 001, Unit 3000, Budget 8172); however, the costs are expected to be incurred during FY 2018-2019. On February 27, 2019, the Budget Committee supported a recommendation that the Board of Supervisors authorize usage of General Fund contingencies in the amount of \$85,124 to fund the FY 2018-19 costs associated with this Project.

Tasks identified in the PSA with EMC and not associated with the tasks outlined in Amendment No. 6, Amendment No. 8, and Amendment No. 10 will be funded through budgets currently established in the FA with the Project Applicants. A 4/5 vote will be required by the Board of Supervisors for budget modifications.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The PSA with EMC and the FA with various Project Applicants will allow for completion of an EIR for the Project which could potentially impact the revenue base and quality of life within the County.

- X - Economic Development
  - Administration
- X - Health & Human Services
- X - Infrastructure
- X - Public Safety

Prepared by: Shelley Glennon, Senior Planner, (831) 755-5173 

Reviewed by: John Dugan, AICP, RMA - Deputy Director of Land Use and Community Development 

Approved by: Carl P. Holm, AICP, RMA Director 

The following attachments are on file with Clerk of the Board:

- Attachment A - Summary of PSA and FA
- Attachment B - Amendment No. 10 to the PSA
- Attachment C - Amendment No. 10 to the FA
- Attachment D - PSA and Amendments No. 1 - 9 to the PSA
- Attachment E - FA and Amendments No. 1 - 9 to the FA
- Attachment F - Draft Resolution