

**AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
KITCHELL/CEM, INC.**

THIS AMENDMENT NO. 1 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Kitchell/CEM, 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 a Professional Services Agreement with County on August 18, 2015 (hereinafter, "Agreement") to provide on-call construction management services for various general projects located in Monterey County (hereinafter, "services") through July 21, 2018 for an amount not to exceed \$5,000,000; and

WHEREAS, effective January 1, 2018, the Indemnification for Construction Management Professional Services Claims provision of the Agreement requires an update to be consistent with a recent change to State law in response to State Bill (SB) 496; and

WHEREAS, County has a continued need for services; and

WHEREAS, additional time is necessary; and

WHEREAS, the Parties wish to amend the Agreement to update the Indemnification for Construction Management Professional Services Claims provision and extend the term for one (1) additional year to July 21, 2019 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. 1.

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

1. Amend the first paragraph of Paragraph 2, "Term of Agreement", to read as follows:

The term of this Agreement is from July 21, 2015 to July 21, 2019, unless sooner terminated pursuant to the terms of this Agreement. The County has the option to extend the Agreement for one (1) additional one (1) year period. If the County exercises its option to extend, the Parties shall mutually agree upon the extension, including any changes in rate or terms or conditions in writing.

2. Amend Section 8.2, "Indemnification for Construction Management Professional Services Claims", under Paragraph 8, "Indemnification", to read as follows:

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of construction management

professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

3. Amend County information under Paragraph 16, "Notices", to read as follows:

FOR COUNTY:

Carl P. Holm, AICP
Resource Management Agency Director
County of Monterey, Resource Management Agency
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527
Phone: (831) 755-4800

4. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference Multi-Year Agreement (MYA) number **MYA 3000*1867**, Project Name and associated Delivery Order number and an original hardcopy shall be sent to the following:

County of Monterey
Resource Management Agency (RMA) – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this AGREEMENT shall be directed to the RMA – Finance Division at (831) 755-4800.

5. All other terms and conditions of the Agreement remain unchanged and in full force.
6. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
7. 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

CONTRACTOR*

By: _____
Contracts/Purchasing Officer

_____ Kitchell/CEM, Inc.
Contractor's Business Name

Date: _____

By: _____
(Signature of Chair, President or Vice President)

Approved as to Form and Legality
Office of the County Counsel-Risk Management
Charles J. McKee, County Counsel-Risk Manager

Its: David Giannelli, Jr Vice Pres
(Print Name and Title)

By: _____
Mary Grace Perry
Deputy County Counsel

Date: 7/13/2018

Date: _____

By: Michael Bauggeman
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Approved as to Fiscal Provisions

Its: MICHAEL BAUGGEMAN/ASST SECRETARY
(Print Name and Title)

By: _____
Auditor/Controller

Date: 7/16/2018

Date: _____

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Management
Charles J. McKee, County Counsel-Risk Manager

By: _____

Name: _____

Title: _____

Date: _____

*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) managing members. 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.

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.

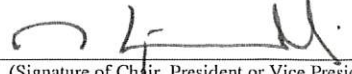
COUNTY OF MONTEREY

CONTRACTOR*

By: 
Contracts/Purchasing Officer

Kitchell/CEM, Inc.
Contractor's Business Name

Date: 7/23/18

By: 
(Signature of Chair, President or Vice President)

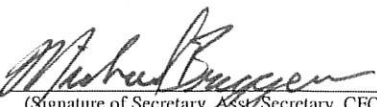
Approved as to Form and Legality
Office of the County Counsel-Risk Management
Charles J. McKee, County Counsel-Risk Manager

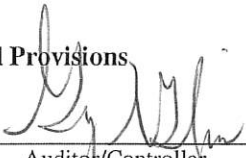
Its: David Cianfrani, Sr Vice Pres.
(Print Name and Title)

By: 
Mary Grace Perry
Deputy County Counsel

Date: 7/13/2018

Date: 7-18-18

By: 
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Approved as to Fiscal Provisions
By: 
Auditor/Controller

Its: Michael Bruggeman / Asst Secretary
(Print Name and Title)

Date: 7-19-18

Date: 7/16/2018

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Management
Charles J. McKee, County Counsel-Risk Manager

By: _____

Name: _____

Title: _____

Date: _____

*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) managing members. 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.