



County of Monterey

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

Legislation Details (With Board Report)

File #: BC 19-011 **Name:** Professional Services Agreement with EMC (Moss Landing)

Type: Budget Committee **Status:** Agenda Ready

File created: 2/13/2019 **In control:** Budget Committee

On agenda: 2/27/2019 **Final action:**

Title:

- a. Support Approval of 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) 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 to a total amount not to exceed \$531,226, with no extension to the Agreement’s term of May 4, 2010 to May 31, 2020;
- b. Support Approval of 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 budget in the amount of \$230,622 is increased by \$70,278 to \$300,900 for a total amount not to exceed of \$635,366, with no extension to the Agreement’s term of May 4, 2010 to May 31, 2020;
- c. Support authorizing 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. Support a recommendation that the Board of Supervisors direct the Auditor-Controller to amend the Fiscal Year (FY) 2018-19 Adopted Budget Fund 001, Appropriations Unit RMA001, to increase appropriations by \$85,123.50 and provide direction to staff on how to finance the requested increase in appropriation by either: general fund contingencies in the amount of \$85,123.50 from CAO020 or cannabis discretionary tax funding. (4/5ths vote required at the full Board of Supervisors)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BC Report, 2. Attachment A - Summay of PSA and FA, 3. Attachment B - Amendment No. 10 to the PSA, 4. Attachment C - Amendment No. 10 to the FA, 5. Attachment D - PSA and Amendmetns No. 1-9, 6. Attachment E - FA and Amendments No. 1-9

Date	Ver.	Action By	Action	Result
2/27/2019	1	Budget Committee		

a. Support Approval of 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) 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 to a total amount not to exceed \$531,226, with no extension to the Agreement’s term of May 4, 2010 to May 31, 2020;

b. Support Approval of 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 budget in the amount of \$230,622 is increased by \$70,278 to \$300,900 for a total amount not to exceed of \$635,366, with no extension to the Agreement's term of May 4, 2010 to May 31, 2020;

c. Support authorizing 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. Support a recommendation that the Board of Supervisors direct the Auditor-Controller to amend the Fiscal Year (FY) 2018-19 Adopted Budget Fund 001, Appropriations Unit RMA001, to increase appropriations by \$85,123.50 and provide direction to staff on how to finance the requested increase in appropriation by either: general fund contingencies in the amount of \$85,123.50 from CAO020 or cannabis discretionary tax funding. (4/5ths vote required at the full Board of Supervisors)

RECOMMENDATION:

It is recommended that the Budget Committee:

a. Support approval of 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 to a total amount not to exceed \$531,226, with no extension to the Agreement's term of May 4, 2010 to May 31, 2020;

b. Support approval of 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 budget in the amount of \$230,622 is increased by \$70,278 to \$300,900 for a total amount not to exceed of \$635,366, with no extension to the Agreement's term of May 4, 2010 to May 31, 2020;

c. Support authorizing 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. Support a recommendation that the Board of Supervisors direct the Auditor-Controller to amend the Fiscal Year (FY) 2018-19 Adopted Budget Fund 001, Appropriations Unit RMA001, to increase appropriations by \$85,123.50, and provide direction to staff on how to finance the requested increase in appropriation by either general fund contingencies in the amount of \$85,123.50 from CAO020 or cannabis discretionary tax funding. (4/5ths vote required at the full Board of Supervisors)

SUMMARY

On May 4th, 2010, County initiated an Environmental Impact Report (EIR) for updating the Moss Landing Community Plan (MLCP). Since the project included long-term plans of multiple private interests, an agreement was reached to share costs with the Project Applicants (PA). The group agreed to a proportional share based on the scope of each project. Changes to the MLCP update scope has resulted in additional costs.

The County portion of the original contract (base budget), as agreed, is 48% (\$231,226) and the PA's portion of the base budget is 52% (\$254,986). The Base budget is not to exceed the amount of \$486,212 and may be paid to EMC as services are rendered. In addition to the base budget, the PA's have paid in full a deposit (surcharge) fund of \$52,070 and partially paid for a contingency fund of \$45,014. The contingency fund is to be used for any cost overages of identified tasks within the EIR scope of work once the services have been fully rendered

and as requested by EMC and approved by all parties. The contingency fund is only partially funded due to two project applicants who are currently delinquent in paying their share (total of \$43,526.40). Staff is exploring options to assure payment without impacting the overall process since that would impact other parties. At this time, no funding is needed to cover the delinquent payments.

Amendment 6 and 8 to the PSA/FA (previously approved by the Board of Supervisors) and proposed Amendment 10 to the PSA/FA have been assessed to increase the base budget due to revisions to the EIR Scope of Work and are to be fully funded by the County since it is the responsibility of the County to update the Community Plan (see discussion below). Amendment 6 and 8 to the PSA/FA have increased the base budget by a total of \$160,948.00 and Proposed Amendment 10 will increase the base budget by \$70,278.00.

Staff is requesting for FY 2018-2019, that RMA receive an increase in budget to fund the total proposed Amendment 10 budget (\$70,278) and remaining balances for Amendments 6 and 8 (\$14,845.50 total) for a Grand Total of \$85,123.50. Staff is seeking direction from the Budget Committee on how to finance the requested FY2018-2019 budget increase by either general fund contingencies or cannabis discretionary tax funding.

DISCUSSION:

Request for FY2018-2019 Budget increase to fund tasks associated with Amendments 6, 8 and 10.

RMA-Planning staff has been directed by the Board of Supervisors to complete the Moss Landing Community Plan Update. Upon that direction, the Board approved the PSA with EMC to complete the EIR for the Community Plan. The Board also approved subsequent Amendments 6 and 8 to increase the Base budget to the PSA. Funding for Amendments 6 and 8 to the PSA have been approved in previous years under the RMA-Planning Budget through the General Plan Implementation/Local Coastal Program. However, due to requested plan revisions and staff availability, the effort was put on hold. During the development of the FY 2018-2019 Budget, RMA requested an augmentation for the Local Coastal Program, but no funding was authorized.

Staff is now moving forward with completion of the Community Plan and has created an updated tentative schedule for completion. Based on this schedule, it is anticipated that EMC will complete some of the tasks associated with PSA Amendment No. 6, 8 and proposed Amendment No. 10 prior to June 30, 2019. The tasks scheduled to be completed in FY 2018-2019 and which require the proposed increase in the FY 2018-2019 budget are listed below:

PSA Amendment No./Task No.	Task	Total funds to be expended FY 18-19
Amendment 6 / Task A6.3	Traffic Report	\$5,845.50
Amendment 8 / Task A8.2	Admin. & Mgmt thru 9/3/18	\$9,000.00
TOTAL (Amendment 6 and 8):		\$14,845.50
Amendment 10/All Tasks/Costs (See Scope of Work)		\$70,278.00
TOTAL Amount Requested for FY 2018-2019:		\$85,123.50

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

Proposed Amendment No. 10 to Professional Service Agreement (PSA) and Funding Agreement (FA) No. 10

The County of Monterey Resource Management Agency (RMA) has identified a need for EMC Planning Group, Inc. (EMC) to provide additional services and technical report updates related to a revised water supply study, updated traffic impact analysis, revisions to the Environmental Impact Report (EIR), and an additional meeting to address the updated studies identified in the scope of work of PSA No. A-11914 for completion of

the Moss Landing Community Plan Update EIR (Project). Revisions to the Draft 2017 Moss Landing Community Plan Update necessitated the additional services discussed above and therefore requires an increase in EMC's PSA and the FA as proposed in Amendment No. 10.

This request is for \$85,123.50 for FY 2018-2019 to fund the County's share of EIR work anticipated to be completed by EMC in this Fiscal Year (FY). Portions of EMC's tasks associated with Amendment Nos. 6 and 8 will be completed this Fiscal Year. All of EMC's tasks associated with Amendment No. 10 will be completed this Fiscal Year. An additional **\$45,015.00** will be required next Fiscal Year to complete work on the EIR. EMC's work on this portion of the EIR will occur next Fiscal Year and will be requested in a budget augmentation request for FY 2019-2020. The request for \$85,123.50 will cover the tasks to be completed this Fiscal Year pursuant to Amendment Nos. 6 and 8 (\$14,845.50) and Amendment No. 10 (\$70,278.00).

Amendment No. 10 to both the PSA and the FA will increase the amount of the Base budget by \$70,278 for a total amount not to exceed \$531,226 for the PSA and for a total amount not to exceed \$635,366 for the FA to allow for these additional services to complete the EIR for the Project. This increase is the responsibility of the County since the Project is for the update of the Moss Landing Community Plan, a County-owned document that requires updating. The Community Plan 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 anyone else concerned with the future development of the Moss Landing Community Area.

Outstanding Balances Under the Project Applicants (PA) Funding Agreement (FA)

As part of the multi-party agreement, each PA agreed to pay their portion of the EIR as well as a portion of the deposit (surcharge) fund and a contingency fund, under the original FA based on their long-term plans. Three of the nine Project Applicants associated with the FA have projects included in the analysis of the EIR including: Monterey Bay Aquarium Research Institute (MBARI), San Jose State University Research Institute and Quin Delta, LLC (aka Gregg Drilling). The County (RMA-Public Works) is also a party for a capital project (Storm Drain Master Plan) in the Moss Landing Community area. As of the writing of this staff report, two Project Applicants have an outstanding balance for their portion of the Funding Agreement as follows: Quin Delta, LLC (aka Gregg Drilling): \$12,846.15 and Moss Landing Commercial Park, LLC dba Moss Landing Business Park: \$30,680.25, for a total of \$43,526.40. The outstanding balance would cover costs associated with the Contingency fund if and/or when it is incurred. RMA is in consultation with counsel to determine available options to ensure payment of this outstanding obligation.

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.

FINANCING:

Pursuant to the terms of the PSA with EMC Consulting and the related FA with the Project Applicants, the County portion of the original base budget, as agreed, is 48% (\$231,226) and the Project Applicant's portion of the base budget is 52% (\$254,986). The Project Applicants have paid in full their portion of the base budget as well as a \$52,070 deposit (surcharge) fund and has partially paid for a contingency fund of \$45,014.00 (outstanding balance of \$43,526.40).

Amendments 6, 8 and 10 to the PSA and FA increase the original base budget by a total of \$231,226.00, all of which is paid for by the County. The costs for EMC to provide specific services as outlined in Amendments No. 6 (\$5,845), Amendment No. 8 (\$9000) and Amendment No. 10 (\$70,278) as related to the update of the water

supply and traffic impact analysis studies for the Project, was 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. Therefore, Staff is requesting direction from the Budget Committee to use either general fund contingencies or cannabis discretionary tax funding to provide \$85,123.50 to fund FY 2018-2019 costs associated with this Project. The current balance for general fund contingencies is \$1,247,089. The balance does not include several requests to utilize contingencies that are pending consideration by the Board of Supervisors. As of June 30, 2018, the cannabis assignment balance was \$8,777,210. Due to current staff constraints within the RMA Planning Division, reprioritizing existing projects within the RMA to conduct the EIR is not a feasible option. 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
- X 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

Dated: February 1, 2019

Attachments:

Attachment A - Summary of PSA and FA

Attachment B - Amendment No. 10 to the PSA (on file)

Attachment C - Amendment No. 10 to the FA (one file)

Attachment D - PSA and Amendments No. 1 - 9 to the PSA (on file)

Attachment E - FA and Amendments No. 1 - 9 to the FA (on file)

(Hard copies are on file with the Committee Secretary.)