

Attachment C



Monterey County Board of Supervisors

Board Order

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1st Floor
Salinas, CA 93901
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A motion was made by Supervisor Chris Lopez, seconded by Supervisor Mary L. Adams to:

Agreement No.: A-15018 ; Amendment No.: 1

- a. Approve Amendment No. 1 to Agreement No. A-15018, Multi-Year Agreement #3200*5442, with Smith & Enright Landscaping, Inc. 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 pursuant to Request for Proposals #10774, to: update the Pricing Schedule effective November 1, 2023, extend the expiration date for 1 additional year through October 31, 2024, for a revised term from November 1, 2020 to October 31, 2024, with the option to extend the term for 1 additional 1-year period, and increase not to exceed maximum by \$250,000 to a total of \$1,000,000; and
- b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 1 to Agreement No. A-15018 and future amendments to the Agreement where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

PASSED AND ADOPTED on this 22th day of August 2023, by roll call vote:

AYES: Supervisors Alejo, Church, Lopez Askew, and Adams

NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting August 22, 2023.

Dated: August 24, 2023
File ID: A 23-400
Agenda Item No.: 78

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

Emmanuel H. Santos, Deputy

**AMENDMENT NO. 1
TO STANDARD AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
SMITH & ENRIGHT LANDSCAPING, INC.**

THIS AMENDMENT NO. 1 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 and funding are necessary to allow CONTRACTOR to continue to provide the services required by the County; and

WHEREAS, the CONTRACTOR's Pricing Schedule requires an update effective November 1, 2023; and

WHEREAS, the Parties wish to amend the Agreement to update the provisions, to update the Pricing Schedule effective November 1, 2023, to extend the term one (1) additional year to October 31, 2024 and to increase the amount by \$250,000 for a total amount not to exceed \$1,000,000 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 Paragraph 2.0, "Payment Provisions", 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 \$1,000,000.

2. 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, 2024, unless sooner terminated pursuant to the terms of this Agreement.

3. Amend Paragraph 4.0, “Scope of Services and Additional Provisions”, to add “Exhibit A-1, Updated Compensation/Payment”, effective November 1, 2023.
4. Amend “Exhibit A, Scope of Services/Payment Provisions” of Agreement, to delete Paragraph B.1, “Compensation/Payment” under Section B, “Payment Provisions”, effective November 1, 2023.
5. In all places within the Agreement, any reference to Paragraph B.1, “Compensation/Payment” under Section B, “Payment Provisions” of Exhibit A, Scope of Services/Payment Provisions is hereby replaced with “Exhibit A-1, Updated Compensation/Payment”, effective November 1, 2023.
6. Amend Section 11.01 of Paragraph 11.0, “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.

7. Amend Agreement to revise Paragraph 16.0, “Signature Page”, to Paragraph 18.0, “Signature Page”.
8. Amend Agreement to add Paragraph 16.0, “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, 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.

9. Amend Agreement to add Paragraph 17.0, "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.

10. In all places within the Agreement, any reference to "Smith & Enright Company, Inc." is hereby replaced with "Smith & Enright Landscaping, Inc.".
11. In all places within the Agreement, any reference to "Resource Management Agency (RMA) or RMA – Public Works, Parks & Facilities" is hereby replaced with "Department of Public Works, Facilities and Parks (PWFP)".
12. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
13. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
14. 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: _____

Angelica Ruelas

Its: _____

Management Analyst/ Deputy Purchasing Agent

(Print Name and Title)

Date: 9/5/2023 | 3:36 PM PDT

Approved as to Form**Office of the County Counsel****Leslie J. Girard, County Counsel**

By: _____

Michael J. Whilden

DocuSigned by:

Michael J. Whilden

Deputy County Counsel

Date: 7/24/2023 | 5:42 PM PDT

Approved as to Fiscal Provisions**Rupa Shah, Auditor-Controller**

By: _____

Patricia Ruiz

DocuSigned by:

Its: _____

Patty Ruiz / Auditor Controller Analyst I

(Print Name and Title)

Date: 7/25/2023 | 10:51 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***Smith & Enright Landscaping, Inc.**

By: _____

James Smith

Its: _____

James Smith, President

(Print Name and Title)

Date: 7/24/2023 | 3:15 PM PDT

By: _____

Richard A. Enright

Its: _____

Richard A. Enright, Treasurer

(Print Name and Title)

Date: 7/24/2023 | 3:46 PM 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 – UPDATED COMPENSATION/PAYMENT
Effective November 1, 2023

To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Smith & Enright Landscaping, Inc., hereinafter referred to as “CONTRACTOR”

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an amount not to exceed **\$1,000,000** for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Pricing Schedule	
Laborer	\$105.00/hour
Operator Engineer	\$145.00/hour
Truck and Trailer Rental	\$45.00/hour
Skid Steer Rental	\$75.00/hour
Admin Fees	\$60.00/day (charged for each day crew is dispatched for route or complaint work and covers collecting and reporting daily work)
Waste Fees	Will be billed based on debris collected and added to our weekly invoice for the ticket amount plus 3%. All receipts will be included with invoicing for verification.

There shall be no travel reimbursement allowed during this Agreement.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.