

County of Santa Barbara
General Services
Capital Projects Division

**AMENDMENT No. 2 TO
PROFESSIONAL SERVICES AGREEMENT**

Between

THE COUNTY OF SANTA BARBARA

And

Kitchell/CEM, Inc.

For

CONSTRUCTION MANAGEMENT AND RELATED PROFESSIONAL SERVICES

For

Northern Branch Jail Project

PROJECT NUMBER: 8600

September 20, 2016

TABLE OF CONTENTS

| <u>PART</u> | <u>TITLE</u> | <u>PAGE</u> |
|-------------|--|-------------|
| 1 | RECITALS..... | <u>1</u> |
| 2 | PROJECT AUTHORIZATION, TERM, MAXIMUM COMPENSATION..... | <u>1</u> |
| 3 | CONSULTANT'S RESPONSIBILITIES, SERVICES, AND DELIVERABLES..... | <u>2-3</u> |
| 4 | GENERAL PROVISIONS..... | <u>4</u> |
| 5 | EXHIBITS | <u>5</u> |
| 6 | SIGNATURES..... | <u>A2</u> |

END TABLE OF CONTENTS

LIST OF EXHIBITS

| <u>EXHIBIT</u> | <u>TITLE</u> | <u>PAGE</u> |
|----------------|---|-------------|
| C-1 | <u>COMPENSATION OF PROJECT PHASES</u> | <u>5</u> |

END LIST OF EXHIBITS

AMENDMENT No. 2 TO PROFESSIONAL SERVICES AGREEMENT

FOR

CONSTRUCTION MANAGEMENT AND RELATED PROFESSIONAL SERVICES

ADULT DETENTION FACILITY

This is the Second Amendment to the Agreement between THE COUNTY OF SANTA BARBARA (hereinafter "Owner" or "County") and Kitchell/CEM, Inc. (hereinafter "Consultant").

PART 1 - RECITALS

- 1.01 **WHEREAS**, on May 14, 2013, the parties hereto entered into an agreement for Construction Management and related professional services ("Agreement"), by Consultant in connection with the Northern Branch Jail Project ("Project");
- 1.02 **WHEREAS**, on September 13, 2013, the parties hereto amended the Agreement to include Commissioning Services by Consultant in connection with the Project ("First Amendment"); and
- 1.03 **WHEREAS**, the parties hereto desire to amend the Agreement ("Second Amendment"), in accordance with Section 16.03 of the Agreement, to add additional services and compensation for said services as provided in Part 2 below.

NOW, THEREFORE, Owner and Consultant agree as follows:

PART 2 - PROJECT AUTHORIZATION, TERM AND MAXIMUM COMPENSATION

2.01 Agreement For Services.

- A. This Second Amendment to the Agreement expands the scope of work for the Project to include additional CM services as a result of an approximate 10 month project delay requiring expanded CM services and Consultant effort associated with the development of a Project Labor Agreement (PLA). This Second Amendment sets forth the terms and conditions pursuant to which Consultant shall also provide basic labor force monitoring services during the Construction Phase to the County. This Second Amendment represents a negotiated scope of work and associated compensation for the additional services defined.
- B. This Second Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by a fully authorized representative of both Owner and Consultant.

2.02 Maximum Compensation.

- A. This Second Amendment increases the previously amended maximum compensation limit of \$2,422,660 by \$90,630 for a maximum compensation limit of \$2,513,290. Part 2, paragraph 2.02 of the Agreement is hereby amended to read:

Compensation for entire Project, which equals the sum of all Project Phases issued pursuant to this PSA, shall not exceed **\$2,513,290 (Two Million Five Hundred Thirteen Thousand, Two Hundred Ninety Dollars)**. If Consultant performs services or incurs expenses beyond this Maximum Compensation Limit, Consultant does so at Consultant's sole risk and expense. County shall not be obligated to pay more than

the amount set forth in this paragraph except as may be provided in a written Amendment signed by both parties.

- B. Pursuant to Section 2.02 A above, Exhibit C of the Agreement is hereby amended to include the attached Exhibit C-1, which is incorporated herein, and specifies the Maximum Compensation Limit (MCL) that Owner will pay to Consultant for each Project Phase for additional services performed under this Second Amendment. The MCL includes all authorized Services and authorized Reimbursable expenses. Total payment by Owner pursuant to any Project Phase will not exceed the MCL specified in the Project Phase, and Consultant shall provide all Services and Deliverables set forth in each Project Phase, compensation for which will not exceed the specified MCL.

2.03 Term

- A. This Second Amendment in no way modifies the term of the Agreement, and all phases of work under this Second Amendment are to occur concurrently with the phases established under the Agreement. This Second Amendment is effective upon the date of full execution by County, and shall remain in effect for the full term of the Project, unless earlier terminated under Part 12 of the Agreement.

2.04 Scope

- A. The Services and Deliverables identified in Part 3, "Consultant's Responsibilities, Services, And Deliverables", of this Second Amendment, establish the full extent of the additional services and deliverables agreed to between parties.
- B. Any act or event affecting any particular Project Phase, such as its completion, termination, acceptance, non-acceptance, continuation or modification, shall not affect any other Project Phase or this Second Amendment unless specifically provided herein or agreed in writing by the parties.

2.05 Consultant Qualifications.

- A. Consultant represents that it has the ability to provide staffing and resources necessary to meet the schedules and needs of this Project.

2.06 Project Phases.

- A. The Project Phases of the Agreement under which Consultant shall provide labor force monitoring services are as follows:
 - 1. Construction Phase.

PART 3 - CONSULTANT'S RESPONSIBILITIES, SERVICES, AND DELIVERABLES

3.01 Consultant's General Responsibilities.

The following General Responsibilities shall apply to all services under this Second Amendment performed by Consultant's personnel and agents.

- A. Standard of Care.
 - 1. Consultant shall perform Services under this Second Amendment in accordance with those standards of care that are generally recognized as being used by competent persons in Consultant's area of specialty in the State of California when performing similar services under similar conditions.
 - 2. Consultant shall perform Services under this Second Amendment in accordance the terms of the Jail Construction Agreement (JCA) and Project Delivery Construction Agreement (PDCA).

3. Consultant shall perform Services under this Second Amendment in compliance with applicable and most stringent written federal, state and local codes, statutes, laws, regulations and ordinances in force at the time a Project Phase is awarded.
4. Unless otherwise agreed upon by the County, where the deliverables include review comments, Consultant shall provide comments within 10 working days of receipt of items to review.

3.02 Basic Services & Deliverables.

- A. Unless the requirements for the Services and Deliverables described herein are specifically modified in writing in a particular Project Phase, when a particular phase of Services is specified and authorized in an individual Project Phase, Consultant shall provide its Services and Deliverables for that phase in conformance with the requirements described in this section. The services to be included in the construction management scope include:
 1. Basic labor force monitoring (including, but not limited to local and veteran labor), recording and tracking to be used in determining the overall local and veteran labor utilized on the Project
- B. Part 5, paragraph 5.10.G, Construction Phase, of the Agreement is hereby amended to add number 38 as follows:

38. **Labor Force Monitoring.**

- a. During Construction Phase, the Consultant's general scope shall include basic labor force monitoring activities including, but not limited to:
 1. Acquisition of labor data from the contractor, including, but not limited to, local and veteran labor data
 2. Assimilation of labor force data, including, but not limited to, contractor, subcontractor and vendor questionnaires, tracking forms, or other means used for acquiring labor force and veteran labor force data.
 3. Accurate recording and filing of acquired labor force data
 4. Assisting the Owner in preparing regional and veteran labor tracking information upon request
 - b. Document Management System: Consultant shall utilize the approved DMS system to file, distribute and manage all reports and submittals of Consultant, wherever possible. All personal labor force information deemed private by statutory regulations shall be redacted in electronically transmitted/stored documents.
 - c. Project Communication during Construction Phase: Consultant shall abide by the communication protocol to be established by the Owner and Construction Manager.
- C. Part 5, paragraph 5.10.G, Construction Phase, of the Agreement is hereby amended to add o to number 43, Deliverable, as follows:
- o. Labor Force Monitoring.
 1. Final Record of All Labor Force Data Acquired
 2. Labor Force Data Reports
 3. Individual Labor Force Questioners

PART 4 - GENERAL PROVISIONS

4.01 Authority and Counterparts

Each party represents that this Second Amendment has been executed in compliance with the requirements of Section 16.03 of the Agreement and the signatories to this Second Amendment have the authority to bind the parties. This Second Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one executed original instrument.

4.02 Effect on Agreement

Except as otherwise amended by this Second Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between any provision of the Agreement and a provision of this Second Amendment, this provision of this Second Amendment shall control.

PART 5 – EXHIBITS

EXHIBIT C-1

COMPENSATION OF PROJECT PHASES FOR AMENDMENT NO 2

| |
|---|
| <p>AMENDMENT NO. 2 BETWEEN THE COUNTY OF SANTA BARBARA AND Kitchell/CEM, Inc., Inc. FOR Construction Management Services and Related Professional Services</p> |
| <p>PROJECT TITLE: Northern Branch Jail Project</p> |

This Table For Owner's Use Only

| Item | Fund | Dept No | Acct # | Program | OrgUnit | Activity | Amount |
|-------------------------------|------|---------|--------|---------|---------|----------|----------|
| Additional CM Services | 0032 | 980 | 7460 | 2000 | 0001 | 3206 | \$90,630 |

COMPENSATION

| Project Phase | Basic Services | Other Cost Item | Supplementary Services | Maximum Compensation Limit for Project Phase |
|---|----------------|-----------------|--|--|
| Construction Documents | \$78,670 | | Updated Schedules, Reports, Questions, Extended Sharepoint Maint, PLA Effort / Support, Research | \$78,670 |
| Construction | \$11,960 | | Basic Labor Compliance Monitoring During Construction | \$11,960 |
| Maximum Compensation Limit on Amendment: | | | | \$90,630 |

Consultant shall submit appropriate documentation and information to support each invoice, including a narrative description of services performed during the period; completed milestones and deliverables. Consultant shall break-out cost items by line items identified in the Compensation Summary table, and label each category the same title. See Agreement Exhibit E for example.

END EXHIBIT C-1

PART 5 - SIGNATURES

Amendment No. 2 to Agreement for CONSTRUCTION MANAGEMENT AND RELATED PROFESSIONAL SERVICES

IN WITNESS WHEREOF, the parties have executed this Second Agreement to be effective on the date executed by COUNTY.

COUNTY


By: _____
PETER ADAM, CHAIR
BOARD OF SUPERVISORS

Dated: _____

ATTEST:
MONA MIYASATO,
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy

CONSULTANT: Kitchell/CEM, Inc.

By:  _____ 8/26/2016
Russell A. Fox
President/Principal-In-Charge

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI,
COUNTY COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
THEODORE A. FALLATI, CPA
AUDITOR-CONTROLLER

By: _____
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO, ARM, AIC
RISK MANAGER

By: _____
Risk Manager

RECOMMENDED FOR APPROVAL:
MATTHEW P. PONTES
DIRECTOR OF GENERAL SERVICES

By: _____
Department Head

END OF AGREEMENT