

ATTACHMENT A

Amendment No. 1 to the Construction Contract Agreement with MarCon Engineering, Inc.

**AMENDMENT NO. 1 TO
PROFESSIONAL SERVICES AGREEMENT**

BETWEEN

THE COUNTY OF SANTA BARBARA

AND

MARCON ENGINEERING INC.

FOR

CONSTRUCTION

OF

CACHUMA LAKE RECREATIONAL VEHICLE SITE RENEWAL

April 8, 2025

AMENDMENT No. 1 to the CONSTRUCTION AGREEMENT

for

Construction of Cachuma Lake Recreational Vehicle Site Renewal

This is the first Amendment ("Amendment") to the Construction Agreement between THE COUNTY OF SANTA BARBARA ("County") and MarCon Engineering Inc., a California corporation ("Contractor").

WHEREAS, on **October 10, 2023**, the parties hereto entered into a **Construction Agreement BC23168 ("Agreement")** for construction services for the Cachuma Lake Recreational Vehicle Site Renewal ("Project"); and

WHEREAS, the Term of the Agreement is 211 days and expires on January 14, 2025, and the Base Contract Amount is \$12,650,888; and

WHEREAS, on October 10, 2023, the County Board of Supervisors authorized the Director of General Services, or his designee, to approve Change Orders under the Agreement in an aggregate amount, in addition to the Base Contract Amount, not to exceed \$645,044.40 ("Contingency Amount"), of which \$435,739.27 has been expended pursuant to Change Order numbers 1 through 12; and

WHEREAS, the parties hereto desire to amend the Agreement to extend the Term until July 31, 2025, and to increase the Contingency Amount to \$952,729.95 to pay for work to be performed by Contractor in addition to the Work contemplated in the original Contract Documents.

NOW, THEREFORE, County and Contractor agree as follows:

1. This First Amendment increases the Maximum Compensation Limit from \$13,295,932.40 to \$13,603,617.95. Accordingly, Part 5 of the Agreement is hereby amended to read in its entirety as follows:

"5. PAYMENT: The amount payable to CONTRACTOR hereunder for full compensation for furnishing all labor, supervision, overhead, materials, and equipment and for completing all of the Work contemplated by this Contract to the satisfaction of County shall not exceed Twelve Million, Six Hundred and Fifty Thousand, Eight Hundred and Eighty-Eight Dollars (\$12,650,888) ("Base Contract Amount"), to be paid as provided in the Contract Documents. The CONTRACTOR assumes and will provide against any loss or damage arising out of the nature of the Work undertaken, the action of the elements, and from any unseen difficulties or obstructions which may arise or be encountered in the performance of the Work until its acceptance by the COUNTY, and assumes any and all expenses incurred by or in consequence of suspension or discontinuance of the Work, for well and faithfully completing the Work and the whole thereof, in the manner and to the requirements of the Contract and directions of the County Representative.

The sum of all payments made to CONTRACTOR for the performance of Extra Work in addition to the Work performed pursuant to Change Order(s) duly executed by the Director of the County's General Services Department, or his Assistant Director designee, shall not exceed \$952,729.95 ("Supplemental Services Amount" or "Contingency Amount"). In no event shall the aggregate amount of all payments made by the County hereunder (i.e., the Base Contract Amount plus the amount of the Contingency Amount payable pursuant to Change Orders) exceed \$13,603,617.95

("Maximum Compensation Limit"). If CONTRACTOR performs services or incurs expenses beyond the Maximum Compensation Limit, CONTRACTOR does so at CONTRACTOR's sole risk and expense."

2. This First Amendment extends the Contingency Amount from \$645,044.40 to \$952,729.95. Accordingly, Part 7 of the Agreement is hereby amended to read in its entirety as follows:

"7. EXTRA WORK: Extra work, materials, resolution of disputes, corrections, and/or changes to the specifications as are required for the proper completion of the Work contemplated in the Contract Documents may be effected or authorized in writing duly executed by the County Representative, including agreement(s) providing for compensation in addition to the Base Contract Amount at the same rate per unit (or at a corresponding rate for work that is different from that provided for in the Contract Documents); provided, however, that the aggregate amount of such compensation in addition to the Base Contract Amount shall not exceed \$952,729.95. Compensation in such other equitable amount as is appropriate for the requirements of the COUNTY may be authorized by resolution or minute order of the Santa Barbara County Board of Supervisors. The County Representative may agree upon an appropriate additional time to be allowed as required for such extra work, materials, resolution, or changes.

3. This First Amendment also extends the Term of the Agreement until July 31, 2025. Accordingly, Part 12 of the Agreement is hereby amended to read in its entirety as follows:

"12. TERM; TIME FOR COMMENCEMENT, COMPLETION: The term of this Agreement commenced on October 10, 2023, and shall expire on July 31, 2025 ("Term"), unless earlier terminated by the COUNTY in accordance with the provisions of this Agreement. The Term may only be extended beyond July 31, 2025 by written amendment of this Agreement duly executed by both CONTRACTOR and COUNTY and approved by the Santa Barbara County Board of Supervisors.

CONTRACTOR shall be liable for Liquidated Damages, in accordance with Article 7.03 of the General Conditions, in the event that CONTRACTOR fails to complete the Work within the Contract Time, as that term is defined in the General Conditions, and as may be extended during the Term via Change Order(s) to account for Excusable Compensable Delays in accordance with Article 7.06 of the General Conditions. The parties hereto acknowledge that the Contract Time commenced on November 3, 2023, and has since been extended via Change Orders, as reflected in the Schedule, from 211 Days to 439 Days, as of April 8, 2025. In no event shall the Contract Time be extended beyond the expiration or termination of the Term."

4. Except as otherwise amended by Section 1, 2, and 3 of this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect.
5. Each of the parties hereto hereby represents and warrants to the other party hereto that:
 - (a) Such party has the full right, power, and authority to enter into this Amendment and to perform its obligations hereunder and under the Agreement as amended by this Amendment.
 - (b) The execution of this Amendment by the individual whose signature is set forth at the end of this Amendment on behalf of such party, and the delivery of this Amendment by such party, have been duly authorized by all necessary action on the part of such party.
 - (c) This Amendment has been executed and delivered by such party and (assuming due authorization,

execution, and delivery by the other party hereto) constitutes the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

6. This Amendment may be executed electronically and in counterparts, each of which shall be deemed to be an original, and all such counterparts shall together constitute one executed original instrument.

COUNTY SIGNATURE PAGE

Amendment No. 1 to the Construction Agreement **BC23168** between the **County of Santa Barbara** and **MarCon Engineering Inc.**

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 to the Agreement to be effective as of the first date executed by all of the parties hereto.

COUNTY OF SANTA BARBARA:

By: _____
Laura Capps, Chair
Board of Supervisors

Date: _____

ATTEST:
Mona Miyasato
County Executive Officer
Clerk of the Board

By: _____
Deputy Clerk

CONTRACTOR:
MarCon Engineering Inc., a California corporation

DocuSigned by:
By: Maryory Contreras
48D416E87D984A5
Authorized Representative
Name: Maryory Contreras
Title: Chief Executive Officer
Date: 3/31/2025 | 2:23 PM PDT

APPROVED AS TO FORM:
County Counsel

Signed by:
By: Lauren Wideman
8F464D822C84458
Rachel Van Mullem
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
Auditor-Controller

DocuSigned by:
By: Betsy Shaffer
6BAAEA15901943F
Betsy Shaffer, CPA, CPFO

RECOMMENDED FOR APPROVAL:
General Services

DocuSigned by:
By: John Green
954424251642422
Kirk Lagerquist, Director
General Services Department

APPROVED AS TO ACCOUNTING FORM:
Risk Management

DocuSigned by:
By: Samantha Francis
57894885FA18407...
Greg Milligan
Risk Manager