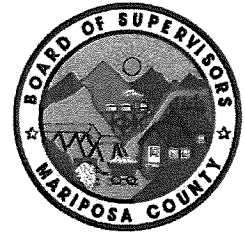


MARIPOSA COUNTY

Planning · 209-966-5151



RESOLUTION - ACTION REQUESTED 2021-441

MEETING: July 27, 2021
TO: The Board of Supervisors
FROM: Sarah Williams, Planning Director
RE: Fourth Amendment - Agreement with Mintier Harnish

RECOMMENDATION AND JUSTIFICATION:

Approve Fourth Amendment to the Agreement with Mintier Harnish to prepare updates to Mariposa County's Development Codes (for Zoning and Subdivisions) to implement the Mariposa County General Plan and state law, to Establish Compensation for Fiscal Year (FY) 2021-2022; and Authorize the Board of Supervisors Chair to Sign the Amendment.

The firm Mintier Harnish Planning Consultants is currently under contract with Mariposa County to prepare updates to Mariposa County's Development Codes (for Zoning and Subdivisions) to implement the Mariposa County General Plan and state law.

Because this contract work would occur in more than one fiscal year, the original contract was structured so that costs for each fiscal year would be brought back to the Board of Supervisors on an annual basis. This ensures availability of funds for continued work on the project.

Allocated compensation for the original agreement for FY 2018-2019 was \$75,000. \$35,953.46 of the budgeted funds were used.

Allocated compensation for the second amendment for FY 2019-2020 was \$160,000. \$107,956.54 of the budgeted funds were used.

Allocated compensation for the third amendment for FY 2020-2021 was \$120,000. As of the date of preparation of this item, \$101,157.66 of the budgeted funds were used.

This fourth amendment establishes funds for FY 2021-2022 at \$100,000. This amount has been included in the approved Planning Department's Budget for Fiscal Year 2021-2022.

The original estimated amount for this project was \$263,076 (including a 10% contingency). That estimated amount did not include time for the work on the Title 1 amendments (although the additional work was added to the agreement). The original estimate was prefaced by an acknowledgement that, "Zoning and Subdivision Ordinance Updates can vary widely in requirements for County staff and Consultant

time and costs." The consultant has indicated that this project is significantly more complicated than other similar projects (due to County's General Plan and Zoning Ordinance structure). The total amount spent to date (including for work on the Title 1 amendments) is \$245,067.66. With this amendment, the total contracted amount would be \$345,067.66.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

March 26, 2019: Resolution No. 2019-161, Agreement with Mintier Harnish Planning Consultants for County of Mariposa Zoning and Subdivision Ordinance Update.

June 11, 2019: Resolution No. 2019-325, First Amendment with Mintier Harnish Planning Consultants to include administrative enforcement procedures in Title 1 within scope of work.

August 6, 2019: Resolution No. 2019-455. Second Amendment with Mintier Harnish Planning Consultants to establish compensation for FY 2019-2020 work.

August 4, 2020: Resolution No. 2020-477. Third Amendment with Mintier Harnish Planning Consultants to establish compensation for FY 2020-2021 work.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve amendment; continued work on contract will not occur.

FINANCIAL IMPACT:

Adequate Funds were budgeted for FY 2021-2022 for this Amendment (BOS Resolution No. 2021-373 Adopting the 2021-2022 Fiscal Year Budget)

ATTACHMENTS:

DRAFT Resolution 2021-~~xxx~~ Fourth Amendment to Agreement Mintier Harnish (PDF)

MCZSO_Short Term Schedule_2021 07 16a BG (PDF)

Resolution 2019-161 Agreement Mintier Harnish (PDF)

Resolution 2019-325 First Amendment to Agreement Mintier Harnish (PDF)

Resolution 2019-455 Second Amendment to Agreement Mintier Harnish (PDF)

Resolution 2020-477 Third Amendment to Agreement Mintier Harnish (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Wayne Forsythe, District IV Supervisor

SECONDER: Miles Menetrey, District V Supervisor

AYES: Smallcombe, Sweeney, Long, Forsythe, Menetrey

**FOURTH AMENDMENT TO AGREEMENT FOR
ZONING AND SUBDIVISION ORDINANCES UPDATE**

THIS FOURTH AMENDMENT TO AGREEMENT FOR ZONING AND SUBDIVISION ORDINANCES UPDATE is made and entered into this 27th day of July 2021, to be retroactively effective on the 1st day of July 2021, by and between the County of Mariposa, a political subdivision of the State of California, hereinafter referred to as “**County**,” and Mintier Harnish Planning Consultants, hereinafter referred to as “**Contractor**.”

WHEREAS, **County** and **Contractor** have heretofore entered into an Agreement dated the 26th day of March 2019 (“**Agreement**”), wherein **Contractor** agreed to provide professional planning consultant services to prepare updates to Mariposa County’s Zoning and Subdivision Ordinances; and

WHEREAS, the Term of the **Agreement** in Paragraph 1 is established as the 31st day of December 2020; and

WHEREAS, Exhibits A and B of said **Agreement** specified a Scope of Work to be completed in Phases, a timeline for Phases with work to be completed within FY 2020-2021, and a Project Cost Estimate showing the total costs, with contingency, to be \$263,076; and

WHEREAS, on the 11th day of June 2019, **County** and **Contractor** amended said **Agreement** to change the scope of work to be provided by **Contractor**, to include enforcement and nuisance abatement provisions in Title 1, County Code; this was titled “First Amendment to Agreement for Zoning and Subdivision Ordinances Update”. No additional funding was allocated for this work; and

WHEREAS, on the 6th day of August 2019 (retroactively applicable to the 1st day of July 2019), **County** and **Contractor** amended said **Agreement** to identify the Compensation for the County’s Fiscal Year (FY) 2019-2020 (July 1, 2019 – June 30, 2020); this was titled “Second Amendment to Agreement for Zoning and Subdivision Ordinance Update”; and

WHEREAS, on the 4th day of August 2020 (retroactively applicable to the 1st day of July 2020), **County** and **Contractor** amended said **Agreement** to identify the Compensation for the County’s Fiscal Year (FY) 2020-2021 (July 1, 2020 – June 30, 2021); this was titled “Third Amendment to Agreement for Zoning and Subdivision Ordinance Update”; and

WHEREAS, **County** and **Contractor** desire to again amend said **Agreement** (as the “Fourth Amendment to Agreement for Zoning and Subdivision Ordinance Update”):

- 1) to extend the term of work,
- 2) to increase the maximum compensation for the work, and
- 3) to identify the Compensation for the County’s Fiscal Year (FY) 2021-2022 (July 1, 2021 – June 30, 2022).

NOW, THEREFORE, the parties hereto in consideration of the mutual covenants herein recited, hereby agree as follows:

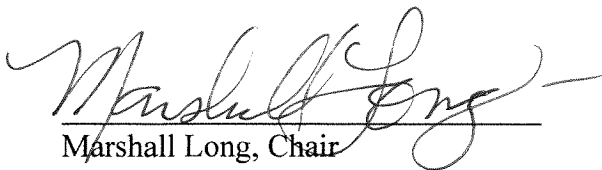
1. **Agreement**, Paragraph 1, "TERM". The term of this Agreement shall be amended to be the 31st day of December 2022.
2. **Agreement**, Exhibit B, "Project Cost Estimate" shall be modified as shown on the Attachment to this Fourth Amendment to Agreement. The maximum compensation for the work shall not exceed \$345,077.66.
3. **Agreement**, Paragraph 3, "COMPENSATION". **Contractor** services performed during County FY 2021-2022 (July 1, 2021 – June 30, 2022) shall not exceed the current funded amount of \$100,000 (hereinafter referred to as "ZO/SO Update Funding Four").
4. Pursuant to the Scope of Work (as contained in Exhibit A of the **Agreement** and as modified by the First Amendment to Agreement), ZO/SO Update Funding Four covers the Phases(s), Tasks(s), and level of effort as described in modified Exhibit B for FY 2021-2022 (attached) as well as any uncompleted Phase(s), Task(s), and level of effort for FY 2018-2019, FY 2019-2020, and FY 2020-2021.

Except as herein amended, the Agreement dated the 26th day of March 2019, the First Amendment dated the 11th day of June 2019, the Second Amendment dated the 6th day of August 2019, and the Third Amendment dated the 4th day of August 2020 shall remain in full force and effect.

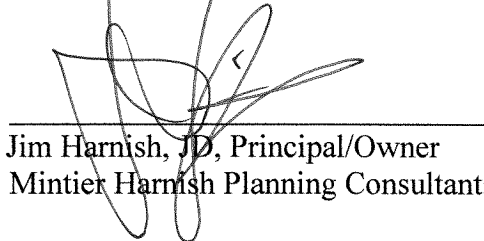
IN WITNESS WHEREOF, the parties have caused this Amendment to be executed on the date first above written.

COUNTY OF MARIPOSA:

CONTRACTOR:





Marshall Long, Chair
Board of Supervisors



Jim Harnish, JD, Principal/Owner
Mintier Harnish Planning Consultants

ATTEST:

APPROVED AS TO FORM:


René LaRoche
Clerk of the Board
Steven W. Dahlem
County Counsel

**ATTACHMENT to
FOURTH AMENDMENT TO AGREEMENT**

Amended Exhibit B

EXHIBIT B

Mariposa County Zoning and Subdivision Ordinance Update

PHASE/TASKS	F/Y 18 - 19	F/Y 19 - 20	F/Y 20-21	FY 21 - 22	TOTAL
PHASE 1: PROJECT INITIATION	\$ 25,853.75	\$ 13,245.00	\$ 4,186.25	\$ 10,000.00	\$ 53,285.00
PHASE 2: ZONING ORDINANCE	\$ 1,480.00	\$ 68,378.75	\$ 92,698.75	\$ 36,845.00	\$ 199,402.50
PHASE 3: SUBDIVISION ORDINANCE	\$ -		\$ -	\$ 22,270.00	\$ 22,270.00
PHASE 4: REVISED PUBLIC REVIEW DRAFT ZONING AND SUBDIVISION ORDINANCE AND ZONING MAP	\$ -		\$ 420.00	\$ 5,000.00	\$ 5,420.00
PHASE 5: CEQA COMPLIANCE	\$ -		\$ -	\$ 3,160.00	\$ 3,160.00
PHASE 6: PUBLIC REVIEW AND ADOPTION	\$ -		\$ -	\$ 13,200.00	\$ 13,200.00
PHASE 7: ADDITIONAL WORK - TITLE 1	\$ 2,230.00	\$ 15,807.50			\$ 18,037.50
PROJECT MANAGEMENT	\$ 4,265.00	\$ 8,647.50	\$ 3,561.25	\$ 5,525.00	\$ 21,998.75
DIRECT COSTS	\$ 2,124.71	\$ 1,877.79	\$ 301.41	\$ 4,000.00	\$ 8,303.91
PROJECT TOTAL	\$ 35,953.46	\$ 107,956.54	\$ 101,167.66	\$ 100,000.00	\$ 345,077.66