

24-1340

**AMENDMENT NO. 5 TO AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES**

THIS AMENDMENT NO. 5 TO AGREEMENT (Fifth Amendment) is made and entered into this 17th day of December, 2024, by and between the County of Fresno (OWNER or COUNTY) and Kitchell/CEM, Inc. (CONSULTANT).

**Recitals:**

1. The COUNTY and CONSULTANT entered into an Agreement dated December 16, 2014 identified as Agreement No. 14-736, incorporated herein by reference (the Agreement), for CONSULTANT to provide construction management services for the West Annex Jail project; and

2. The COUNTY and CONSULTANT entered into the First Amendment to the Agreement dated August 4, 2020 identified as Agreement No. 14-736-1, incorporated herein by reference (First Amendment), which provided for an increase of \$579,739 to the maximum Extra Services compensation amount; and

3. The COUNTY and CONSULTANT entered into the Second Amendment to the Agreement dated May 25, 2021 identified as Agreement No. 14-736-2, incorporated herein by reference (Second Amendment), which provided for an increase of \$1,039,532 to the maximum Extra Services compensation amount; and

4. The COUNTY and CONSULTANT entered into the Third Amendment to the Agreement dated April 19, 2022 identified as Agreement No. 22-160, incorporated herein by reference (Third Amendment), which provided for an increase of \$539,757 to the maximum Extra Services compensation amount; and

5. The COUNTY and CONSULTANT entered into the Fourth Amendment to the Agreement dated May 21, 2024 identified as Agreement No. 24-237, incorporated herein by reference (Fourth Amendment), which provided for an increase of \$73,500 to the maximum Extra Services compensation amount; and

6. The additional \$73,500 amount provided by the Fourth Amendment increased the maximum Extra Services allocation to \$3,308,923, and increased the maximum Total Fee amount under the Agreement to \$7,032,775; and

1           7.       Since the date of approval of the Fourth Amendment, OWNER is, authorizing  
2 project closeout as part of the schedule, preparing to release project retention; and

3           8.       OWNER and CONSULTANT now desire to increase the maximum Extra  
4 Services allocation payable under the Agreement by an additional \$505,000, in order to ensure  
5 adequate funding to compensate CONSULTANT for project retention and continuing to provide  
6 construction management staff for post-construction ("project completion") phase, including but  
7 not limited to the SB1022 State audit performed by the Board of State and Community  
8 Corrections (BSCC); and

9           9.       The increase of \$505,000 to the maximum Extra Services allocation is the  
10 estimated amount needed to compensate CONSULTANT for continuing to provide construction  
11 management services for such additional time as is required, up to 13 weeks (through  
12 December 31, 2024); and

13          10.       The increase of \$505,000 is based upon the "average per week fee" of \$4,200  
14 listed in Exhibit F-1 (attached to this Amendment No. 5 and incorporated by this reference),  
15 multiplied by the projected maximum number of additional weeks (13) that is required for  
16 completion of CONSULTANT's services; provided, however, that it is expressly understood and  
17 acknowledged by the Parties that the actual amount of compensation paid under the  
18 Agreement as hereby amended will continue to be governed by the invoices submitted by  
19 CONSULTANT, based on the rates listed in Exhibit A to the original Agreement (and subject to  
20 any adjustments in the interim pursuant to Paragraph V.A.2 thereof); and

21          11.       Approval of this Amendment No. 5 will increase the maximum amount payable  
22 to CONSULTANT for Extra Services to \$3,813,923, and will increase the maximum Total Fee  
23 amount payable to CONSULTANT to \$7,537,775, and

24               NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of  
25 which is hereby acknowledged, the parties agree as follows:

26          1.       That existing County Agreement No. 14-736, Article IV, Section A, Paragraph 1,  
27 at Page 23, Lines 21 through 23, (as later amended by Amendment 4 Page 3, Lines 3 through  
28 5), is hereby deleted in its entirety and replaced with the following paragraph:

1 "Notwithstanding any other provision in this Agreement, the Total Fee (Basic Fee and  
2 Extra Services Allocation) for the services required under this Agreement shall not exceed a  
3 total amount of \$7,537,775."

4 2. That existing County Agreement No. 14-736, Article IV, Section C, Paragraph 1,  
5 at Page 24, Line 24, beginning with the word "There" and ending on Page 25, Line 3 with the  
6 word "exceeded" (as later amended by Amendment 4, Page 3, Lines 10 through 15) is hereby  
7 deleted in its entirety and replaced with the following paragraph:

8 "There will be an additional maximum allocation of \$505,000 to pay for authorized Extra  
9 Services, project closeout and project retention. Payment of Extra Services in excess of  
10 \$3,813,923 is unauthorized and can only be made pursuant to a prior written amendment to  
11 this Agreement when the cumulative total of the Basic Fee and Extra Services allocation would  
12 thereby be exceeded. The COUNTY Representative shall have the discretion to adjust in  
13 writing the Basic Fee and Extra Services limits as long as the total Agreement amount of  
14 \$7,537,775 is not exceeded."

15 All other terms, conditions, mutual covenants, and promises contained in the  
16 Agreement, as previously amended, shall remain in full force and effect, except as hereinabove  
17 amended by this Fifth Amendment. COUNTY and CONTRACTOR agree that this Fifth  
18 Amendment is sufficient to amend the Agreement and that upon execution of this Fifth  
19 Amendment, the original Agreement, together with the First Amendment, the Second  
20 Amendment, the Third Amendment, the Fourth Amendment and this Fifth Amendment shall  
21 collectively be considered as comprising the entire Agreement.

22 The Agreement, as hereby amended, is ratified and continued. All provisions, terms,  
23 covenants, conditions and promises contained in the Agreement, and not amended herein,  
24 shall remain in full force and effect.

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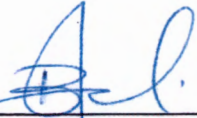
[SIGNATURE PAGE FOLLOWS]

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The parties are executing this Amendment No. 5 on the date set forth in the introductory clause.

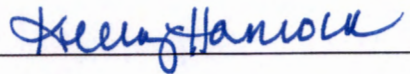
**CONSULTANT**

**COUNTY OF FRESNO**

BY:   
Bikramjit Johal, Vice President,  
Kitchell/CEM, Inc.  
2450 Venture Oaks Dr. Suite 500  
Sacramento, CA 95833

  
Nathan Magsig, Chairman of the Board  
of Supervisors of the County of Fresno

**ATTEST:**  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By   
Deputy

**FOR ACCOUNTING USE ONLY**

ORG No. 8845, 8846  
Account No. 8150  
Fund No. 0400  
Subclass No. 10045, 10046  
Program No. 91157, 91158

KITCHELL

**Average Construction Management and Inspection Fee per Week:** The below average per week fees represent construction manager only, and exclude office staff, inspection staff, and specialized basic services such as design phase estimating, value engineering, life cycle cost reviews and constructability reviews.

Extension of Services beyond Original Contract ( December 31, 2024) \$4,200/wk