

**AMENDMENT NO. 4 TO
PROFESSIONAL SERVICES AGREEMENT
CIP 20-13: PALOMA WASH PEDESTRIAN BRIDGE PROJECT
(PROFESSIONAL DESIGN SERVICES)**

This is Amendment No. 4 (“Amendment No. 4”) to that certain Professional Services Agreement (“Agreement”) made on **June 1, 2022**, between the City of Menifee (“City”) and **ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA** (“Consultant”) for **CIP 20-13 PALOMA WASH PEDESTRIAN BRIDGE PROJECT (PROFESSIONAL DESIGN SERVICES)**, as amended by that certain Amendment No. 1 to the Agreement entered into on **December 6, 2023** (“Amendment No. 1”), as amended by that certain Amendment No. 2 to the Agreement entered into on **June 20, 2024** (“Amendment No. 2”), as amended by that certain Amendment No. 3 to the Agreement entered into on **December 17, 2024** (“Amendment No. 3”) which this Amendment No. 4 is made and entered into on _____, **2024** to increase the compensation amount, and augment the scope of services as indicated below:

1. Capitalized terms used but not defined in this Amendment No. 4 shall have the meanings ascribed to them in the Agreement.
2. **SECTION 2**, “Compensation” is amended to increase the maximum compensation by **Sixty Seven Thousand Three Hundred Seventy Five Dollars and Zero Cents (\$67,375.00)**, and is amended to read as follows:

SECTION 2. COMPENSATION.

City hereby agrees to pay Consultant a sum not to exceed **Three Hundred Thirteen Thousand Two Hundred Dollars and Zero Cents (\$313,200.00)** notwithstanding any contrary indications that may be contained in Consultant's proposal, for the Services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Exhibit A, regarding the amount of compensation, this Agreement shall prevail. City shall pay Consultant for the Services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for the Services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Consultant shall not bill City for duplicate services performed by more than one person.

3. Exhibit A, “Scope of Services” is supplemented to include the supplement attached as Exhibit A hereto. The supplement to the “Scope of Services” is not intended to replace the original Exhibit A to the Agreement, but instead to augment and increase the scope of work listed in the original Exhibit A to the Agreement. The

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CIP 20-13: PALOMA WASH PEDESTRIAN BRIDGE PROJECT
(PROFESSIONAL DESIGN SERVICES)**

initial paragraph of the original Exhibit A, "Scope of Services", to the Agreement is amended to read as follows:

Consultant shall provide **CIP 20-13 PALOMA WASH PEDESTRIAN BRIDGE PROJECT (PROFESSIONAL DESIGN SERVICES)**, in the amount not to exceed **Three Hundred Thirteen Thousand Two Hundred Dollars and Zero Cents (\$313,200.00)** as further detailed in the following page(s).

4. All other terms and conditions of the Agreement remain in full force and effect.
5. This Amendment No. 4 may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

CITY OF MENIFEE

ENGINEERING RESOURCES OF
SOUTHERN CALIFORNIA

Armando G. Villa, City Manager

John M. Burdin, President

Attest:

Moe Alimadi, Vice President

Stephanie Roseen, City Clerk

Approved as to Form:

Jeffrey T. Melching, City Attorney

AMENDMENT NO. 4 TO
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CIP 20-13: PALOMA WASH PEDESTRIAN BRIDGE PROJECT
(PROFESSIONAL DESIGN SERVICES)

EXHIBIT A
SUPPLEMENT TO SCOPE OF SERVICES



REDLANDS | TEMECULA | PALM DESERT

December 5, 2024

Revised December 20, 2024

City of Menifee.
Attn: Carlos Geronimo, Engineering Manager
29844 Haun Road
Menifee, CA 92586

Re: Paloma Wash Pedestrian Bridge – Additional Services #3

Dear Mr. Geronimo;

This letter is being sent following a request by the City to amend our previous requests for Additional Services (dated 3/27/2024, revised 4/18/2024; dated 10/8/2024). The Additional Services request #2 for Environmental Services was approved in May of 2024. This Additional Services request #3 will again summarize additional services performed for out of scope work and/or work performed due to extended project schedule, and indicate the additional funding requested to cover costs incurred over and above the existing approved budget in which services were provided on tasks over the past several months by the ERSC Team. This letter includes the additional work ERSC and its subconsultants have continued to perform in good faith over the last nine months and will continue to perform to complete the prefabricated bridge plans and reporting documents.

Following the original submittal of ERSC's request for additional services in March of 2024 the City requested ERSC to review the available budget in current Tasks and if possible, utilize those Tasks' remaining unused budget to offset the requests for additional funding. In April, 2024 ERSC completed an in-depth review of tasks completed, money spent, and remaining work within various Task's budget. The Tasks that had remaining budget available (excluding 100% PS&E and Construction Services which are not under consideration since this work is either under way or future work) were all ERSC tasks. Subconsultants had or were near billing 100% of their budgeted amount in all tasks and had produced the required documents. ERSC believes the subconsultants are justified in their requests and due the additional costs they submitted as they have completed work requested by ERSC at the request or direction of the City which in our belief was over and above their original scope of services. ERSC mentioned the out-of-scope work at several of the various Monthly Meetings.

In April there was a total of \$28,119.00 within ERSC's existing budget that was proposed to be utilized to offset some the requested extra costs. This amount did not

Re: Paloma Wash Pedestrian Bridge – Additional Services #3
December 20, 2024

include any of the Tasks that are still to be performed or are currently being worked on. The offset amount was noted after the individual tasks that additional funding is being requested of, where applicable.

The requested additional services were never authorized nor approved by City staff, except for the Environmental Services for mitigation measures. However, ERSC's Team has continued to work toward a 100% complete submittal in good faith that extra budget would be granted by the City for the additional work. The continued work on preparing the 100% PS&E have lowered the available budget that was to be used for offsetting of over budget tasks. Plans have reached the 100% level and the City advertised the Project for a second bid in October 2024. No bids were received as a result of the second NIB. The City informed ERSC of its intent to re-bid the Project in December of 2024 or early January of 2025 and supplied ERSC with questions and comments generated during the second NIB for ERSC and its subconsultants to address and incorporate, if applicable, into the third 100% PS&E submittal for the Project.

ERSC respectfully requests the City to approve the additional services as detailed below.

Task A – Project Management

Task 1.1 Project Management and Coordination

ERSC is requesting additional funding to cover continued Project Management and Coordination for the Project. The RFP had indicated the timeline for Environmental and PS&E was nine months. There have been several stops to the project with three different City Project Managers being brought on board which understandably has necessitated questions and being brought up to speed on the project. In addition, the Project has been prepared for three separate Notice Inviting Bid which involves significant coordination between ERSC's Team, City and Bridge Manufacturer. To date the project has required Project Management since June of 2022 or over 30 months.

Based upon the current status of the Project, it is anticipated the Project will be out to Bid in December of 2024 with construction continuing for 4-6 months after that and project closeout. Therefore, ERSC is requesting funding to cover the extended time of Project Management. This amount includes ten months of unbilled Project Management of \$11,890.00 or 66 hours, plus 12 hours for the PM to continue with Project Management for the next six months.

Total Cost Task 1.1 = \$14,050.00

Re: Paloma Wash Pedestrian Bridge – Additional Services #3
December 20, 2024

Task 1.2 Monthly Project Team Meetings

As indicated in the above Task, the Project had an original schedule of nine months to complete Environmental and PS&E. The original Proposal assumed one meeting per month and/or at major milestones. To date ERSC and subconsultants have attended 19 monthly meetings and in January of 2024, it has been requested that a second meeting be scheduled mid-month between the monthly meetings. While the supplemental meetings are usually limited to 30 minutes and meeting minutes are not necessary, they do require participation time. There have also been impromptu meetings requested by the City to discuss any issue with the Project that needed immediate discussion, such as coordination with Bridge Brothers, Riverside County Flood Control & Water Conservation District and Environmental Reporting. ERSC is requesting additional funds to cover both ERSC and sub-consultants' time spent on past monthly meetings above the originally scheduled monthly meetings plus attendance at past supplemental and impromptu meetings in addition to future monthly and supplemental meetings until the project is out to Bid. This amount includes a task overage of \$3,058.00 for various ERSC staff attending prior meetings plus 10 hours of future meetings; request of 20 hours of STK staff to cover past and future meetings; request of 18 hours by STC to cover past and future meetings.

Total Cost = \$11,482.00

TOTAL REQUEST TASK 1.2 = \$11,482.00

Task 1.5 – QC Plan/Program

Multiple submittals with review of Bridge plans versus ERSC Team plans has resulted in this Task becoming over budget. ERSC offered to cover this item with offset amounts from existing available budget in existing tasks. The City rejected this offer citing ERSC's Team missed various coordination items it felt should have been caught. ERSC acknowledges missing some coordination items that should have been caught in the review process. ERSC will accept the responsibility of the task overage.

Total Cost = \$2,830.00

TOTAL REQUEST TASK 1.5 = \$0.00

Task C – Environmental Efforts

Task 3.1 Environmental Documentation & Approval

ERSC's original proposal had included Burrowing Owl Surveys with Report, Burrowing Owl Habitat Loss Mitigation and Relocation Program, MSHCP Consistency Analysis and Report and finally RCTC required forms. Prior to award of the contract, the City requested removal of the task from ERSC's proposal involving the BUOW Mitigation and Relocation Program which would be prepared during the Construction Phase. In May of 2024, the City approved an extra service request for WSP (ERSC Environmental sub-consultant) for Environmental Services to include a Monitoring and Mitigation Plan.

Re: Paloma Wash Pedestrian Bridge – Additional Services #3
December 20, 2024

In September of 2024, following discussion with RCFC & WCD (District) while preparing the required documents for the Encroachment Permit and Cooperative Agreement, the District indicated they require a Jurisdictional Delineation Report and a Determination of Biologically Equivalent or Superior Preservation (DBESP) be prepared. WSP has submitted their proposal for providing these reports. Their services include:

Jurisdictional Delineation (JD)

A WSP USA biologist will perform a delineation of potential jurisdictional areas in the vicinity of the proposed project in accordance with methodology in the Army Corps of Engineers 1987 Wetlands Delineation Manual, Arid West Supplement, and applicable definitions in the California Fish and Game Code. Jurisdictional waters of the U.S. are regulated by the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act and by the Regional Water Quality Control Board under Section 401 of the Clean Water Act. Jurisdictional waters of the State are regulated by the California Department of Fish and Wildlife (CDFW) under Section 1602 of the State Fish and Game Code and by RWQCB under the Porter Cologne Act. In order to make a jurisdictional determination and delineate potential waters, a WSP USA wetland specialist will perform the following tasks:

- Review of Background Information: WSP USA will review existing literature related to the site including historical topographic maps and aerial photos, National Wetland Inventory Maps, and Soil Survey data in order to determine potential jurisdictional waters.
- Field Assessment and Delineation: A WSP USA wetland specialist will visit the site to collect data and analyze the project site for potential jurisdictional waters. Field surveys will evaluate soils, vegetation, and hydrologic conditions on the site. WSP USA will delineate jurisdictional waters using approved state and federal methods and collect data utilizing a GPS with sub-meter accuracy.
- Report and Impact Assessment: WSP USA will produce a Jurisdictional Determination and Delineation Report that defines methods and results of the field assessment. Boundaries of jurisdictional waters will be overlaid onto aerial photographs for identification. Proposed impact areas will be overlaid onto the aerial photograph to identify and quantify impacts. WSP USA will provide approximate calculations of the amount of acreage of waters to be impacted (if any) by the project (please note that this calculation is contingent upon having completed engineering drawings of the project).

Findings and recommendations will be incorporated into a Jurisdictional Delineation Report. Following one round of review comments from the client, a final report will be prepared.

Re: Paloma Wash Pedestrian Bridge – Additional Services #3
December 20, 2024

Determination of Biologically Equivalent or Superior Preservation

If impacts are proposed to MSHCP resources such as riverine/riparian areas, WSP USA will prepare a DBESP report documenting that the proposed mitigation is biologically equivalent or superior to the existing conditions of the project site if left undisturbed. This will be completed by describing the functions and values of the impacted resource pre- and post-project development, and relative to mitigation implementation. The report will follow the WRMSHCP DBESP report template guidelines. DBESP sections will include discussion of impacts, if any, to riparian/riverine resources, narrow endemic plant species, additional survey needs, burrowing, mammals, and amphibians. The DBESP report will also include discussion on mitigation strategy. This task provides up to one round of comment revisions and one meeting with the City and/or ERSC. Should further revisions be necessary beyond a single round of comment revisions for the DBESP report, additional budget may be required. Additional budget may also be requested if more than one meeting with the ERSC, RCA, or the wildlife agencies is needed.

Regulatory Permitting

WSP permitting specialists will prepare individual permit application packages for each of the agencies based on the most recent project impacts. Permit applications will be prepared for the following agencies:

- California Department of Fish and Wildlife: An application for a 1600 Streambed Alteration Agreement will be prepared.
- Regional Water Quality Control Board: An application for Waste Discharge Requirements will be prepared since a 404 permit will not be required. This task includes time and coordination to set up and attend one pre-application meeting with the Regional Water Quality Control Board (RWQCB).

Additional documentation may be required by each regulatory agency. Documents already prepared by Engineering Resources of Southern California, Inc. (ERSC) under the original contract will be included with the submittal. These documents include but are not limited to grading plans and hydrology study. Should CEQA documents and Cultural Resource Documents be required, ERSC's Team will submit a scope and cost for services to the City for consideration. Draft copies of the permits will be provided to Engineering Resources of Southern California, Inc. for review and approval, submit applications, and follow up with agencies on a monthly basis for up to 3 months to ensure proper permit processing. Permit fees **are not included** in this scope. Completion of this task does not include issuance of permits by regulatory agencies.

This scope of work **does not include** the following documents: An Alternatives Analysis

Re: Paloma Wash Pedestrian Bridge – Additional Services #3
December 20, 2024

(Tier #), Draft Restoration Plan for Temporary Impacts, and/or a Draft Compensatory Mitigation Plan. These documents are typically required under the Individual Permit Process with the USACE. WSP can provide scope and cost for any of the afford mentioned documents at the request of Engineering Resources of Southern California, Inc., if necessary.

Both the Water Quality Monitoring, Diversion or Dewatering Plan and/or the Post-Construction Stormwater Control Plan will be completed by the construction company who will write these documents and implement them during construction.

In order to avoid delays in the project and allow WSP to begin their environmental work, ERSC agreed to “front” the money to pay for their invoices prior to City Council approval of the additional Environmental services. This is another example of ERSC’s good faith effort to keep the project moving forward.

Total Cost = \$28,746.00

TOTAL REQUEST TASK 3.1 = \$28,746.00

Task F.4 – Final Engineering/Construction Documents

Both STC and STK have requested additional budget to cover overages they have incurred with the project to date. STC’s time includes extensive research for bridge lighting with variable accessories per the request of the City, design changes for power sources which involved additional field reviews and alternative methods of energizing (which would be constructed first – the bridge or the amphitheater). STC is requesting a lump sum fee of \$4,200.00 to cover their extra services.

STK is requesting budget to cover cost incurred beyond what was budgeted for preparation of walkthrough video for presentation at City Planning meeting, diversion on the design after design intent approval (industry standard of 3 options provided with several sub-options requested), preparation of three bridge bid packages, and extensive coordination with bridge designers and vendor representatives, specifically for shade structure coordination, and technicians beyond what was included in their original scope of service. STC is requesting a lump sum fee of \$27,338.00 to cover their extra services.

Total Cost = \$31,238.00

Available Offset Amount from Subtask 1.4 <\$600.00>

Available Offset Amount from Subtask 1.6 - <\$270.00>

Available Offset Amount from Task B - <\$1,381.00>

Available Offset Amount from Subtask B.1 - <\$119.00>

Available Offset Amount from Subtask B.2 - <\$226.00>

Available Offset Amount from Task D - <\$3,745.00>

Re: Paloma Wash Pedestrian Bridge – Additional Services #3
December 20, 2024

Available Offset Amount from Task F.2 - <\$5,396.00>
Available Offset Amount from Task F.3 - <\$12,179.00>
TOTAL REQUEST TASK F.4 = \$7,322.00

Task G & Task H – Construction Bidding and Construction Support Phase

ERSC's proposal included these two tasks indicating they were not identified in the RFP but were mentioned in the RFP's project description. STC did not include these items in their proposal to ERSC, thus no budget was included should their services be required for bidding or construction. STC has submitted a budget request for these two items to be included in this request for additional services. STC will respond and answer up to three (3) RFI bidder requests and five (5) contractor requests, review lighting material submittals (up to two (2) rounds) for materials identified on plans and specifications, and prepare record drawings. STC is requesting a lump sum amount of \$5,775.00 for the two tasks of Construction Bidding and Construction Support Phase.

Total Cost Task G & H = \$5,775.00

ERSC believes we have made a good faith effort to comply with the City's request for utilizing available ERSC current budget to offset a portion of the additional services requested by the sub-consultants. ERSC has reduced the requested task overages by utilizing \$23,916.00 of remaining ERSC budgets in completed tasks. Task F.4, Final Engineering/Construction Documents remaining budget has not been used as an offset as there are still pending invoices from subconsultants. Task G, Construction Bidding Phase and Task H, Construction Support Phase budgets are also not being offered to offset any extra services as these tasks are still pending.

Total Requested Extra Services:	\$91,291.00
Total ERSC Offset of Costs:	<u>\$23,916.00</u>
Adjusted Request of Costs for Extra Services:	\$67,375.00

Should you have any questions about the above requested costs, do not hesitate to contact me at your earliest convenience.

Respectfully,



Lori J. Askew
Principal Engineer