

MARIPOSA COUNTY

Planning · 209-966-5151



RESOLUTION - ACTION REQUESTED 2019-325

MEETING: June 11, 2019
TO: The Board of Supervisors
FROM: Sarah Williams, Planning Director
RE: First Amendment - Agreement with Mintier Harnish

RECOMMENDATION AND JUSTIFICATION:

Approve the First Amendment to an Agreement with Mintier Harnish, to Include Enforcement and Nuisance Abatement Provisions (Title 1); and Authorize the Board of Supervisors Chair to Sign the Amendment.

The firm Mintier Harnish Planning Consultants is currently under contract to prepare updates to Mariposa County's Zoning and Subdivision Ordinances (Titles 16 and 17), to implement the Mariposa County General Plan.

Based on limitations of the County's current code compliance provisions, the County is interested in pursuing code amendments to provide more effective, efficient and less costly administrative enforcement procedures. Currently, County Code provides only for penalty assessment through legal action enforced by the courts. This amendment will provide the ability for staff to assess and enforce administrative penalties. Current code also permits multiple appeals that lead to lengthy procedures and an inability to enforce corrective action for extended time periods.

These administrative enforcement procedures will be included in Title 1, General Provisions, and are not included in the current contract. Mintier Harnish is experienced with the preparation of administrative enforcement procedures, and qualified to do this work.

This amendment will not change the contractor's compensation for the current fiscal year; services performed shall not exceed the current funded amount of \$75,000.

This amendment will add work to the current fiscal year's services, and move one task (Task 2.1) to Fiscal Year 19/20 work.

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

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ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve amendment. Mintier Harnish would not prepare Enforcement and Nuisance Abatement provisions.

FINANCIAL IMPACT:

None for current FY. Change is for scope of work only.

ATTACHMENTS:

MCZSO-First-Amendment-MintierHarnish-2019-05-29 (signed) (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Rosemarie Smallcombe, District I Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Rosemarie Smallcombe, Merlin Jones, Marshall Long, Miles Menetrey

EXCUSED: Kevin Cann

**FIRST AMENDMENT TO
AGREEMENT FOR ZONING AND SUBDIVISION ORDINANCES
UPDATE, TO INCLUDE ENFORCEMENT AND NUISANCE
ABATEMENT PROVISIONS (TITLE 1)**

THIS FIRST AMENDMENT TO AGREEMENT FOR ZONING AND SUBDIVISION ORDINANCES UPDATE is made and entered into this 11th day of June, 2019, 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, County and Contractor desire to amend said **Agreement** to change the work scope to be provided by **Contractor** and budget to be provided to **Contractor** (in future fiscal years), to include enforcement and nuisance abatement provisions in Title 1, County Code.

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

1. **Agreement**, Paragraph 2, “SERVICES”, is hereby amended to include supplemental work as described in Exhibit A.1 (attached).

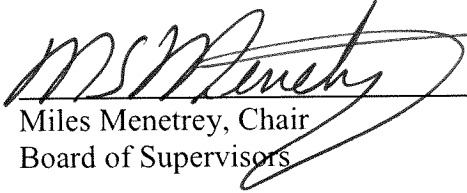
2. **Agreement**, Paragraph 3, “COMPENSATION” shall not be amended for the FY 18/19; the **Contractor** services performed during FY 18/19 shall not exceed the current funded amount of \$75,000. Exhibit B, referenced in Paragraph 3, is amended to: a) include the Enforcement and Abatement Provisions Budget Estimate as described in Exhibit B.1 (attached) and b), move Phase 2, Task 2.1 from the FY 18/19 column to the FY 19/20 column.

3. Costs for this amendment shall be covered by the “Contingency”, as shown in the Project Management section of **Agreement**, Exhibit B.

4. Except as herein amended, the agreement dated the 26th day of March 2019 shall remain in full force and effect.

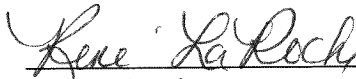
IN WITNESS WHEREOF, the parties have caused this Amendment to be executed on the date first above written.

COUNTY OF MARIPOSA:



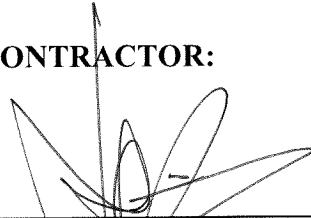
Miles Menetrey, Chair
Board of Supervisors

ATTEST:



René LaRoche
Clerk of the Board

CONTRACTOR:



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

APPROVED AS TO FORM:



Steven W. Dahlem
County Counsel

Exhibit A.1

Mariposa County Zoning and Subdivision Ordinances Update Supplemental Work Scope and Budget Enforcement and Nuisance Abatement Provisions (Title 1)

County staff have requested that the Mintier Harnish team (which includes Jacobson & Wack) assist with revising the enforcement and nuisance abatement provisions in the County Code (Title 1) to include more effective administrative enforcement procedures. Currently, the County Code provides only for penalty assessment through legal action enforced by the courts. The County is seeking to include the ability for staff to assess and enforce administrative penalties. The Code also permits multiple appeals that lead to lengthy procedures and an inability to enforce corrective action for extended time periods. The County has prepared three separate drafts of new enforcement and nuisance abatement provisions, (one prepared by outside legal counsel) but is not fully satisfied with any of those drafts.

Work scope

Task 1: Review Existing Documents. Mintier Harnish will review the three staff draft enforcement and nuisance abatement provisions and County Code Chapter 1.20 (General Penalty). Based on that review and our understanding of County staff concerns about the three drafts and expectations for new enforcement and nuisance abatement provisions, we will prepare an outline and summary of new code enforcement provisions. We will submit this outline to County staff for review and concurrence with our approach. If needed, we will facilitate one or more conference calls with County staff to reach consensus on our approach.

Task 2: Prepare Administrative Draft Enforcement and Nuisance Abatement Provisions. Mintier Harnish will prepare revisions to the County Code Title 1 – General Provisions, to include administrative enforcement and nuisance abatement provisions. We will also address, as necessary, Subdivisions Enforcement and Penalties (Chapter 16.32) and Zoning Enforcement (Chapter 17. 144) to ensure consistency and proper cross referencing to Title 1. We will revisit these chapters as a part of the comprehensive update of Titles 16 and 17. The new provisions will provide for clear, effective administrative enforcement procedures, nuisance abatement, assessment of administrative fines, correction of violations, and appeal procedures. Mintier Harnish will submit an Administrative Draft of the revised provisions for County staff review.

Task 3: Public Review Draft Enforcement and Nuisance Abatement Provisions. Following County staff review and any required conference call(s), Mintier Harnish will prepare the Public Review Draft Enforcement and Nuisance Abatement Provisions. County staff will be responsible for facilitating the public review and adoption of the new provisions.

Schedule

Task 1: Approach outline completed two weeks following authorization to proceed. Assume two weeks for staff review and team discussion. Total time: **four weeks**.

Task 2: Administrative Draft provisions completed four weeks following staff approval of approach. Assume four weeks for staff review and team discussion. Total time: **eight weeks**.

Task 3: Public Review Draft provisions completed in **two weeks**.

Exhibit B.1

Enforcement and Abatement Provisions Budget Estimate				
TASK	HARNISH	GIBBONS	JACOBSON	COST
1. Document Review	8	2	8	\$3,540
2. Administrative Draft	8	6	16	\$5,820
3. Public Review Draft	4	4	4	\$2,280
Total Hours	20	12	28	
Hourly rate	\$200	\$170	\$200	
Total Cost	\$4,000	\$2,040	\$5,600	\$11,640