

March 29, 2022

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

Various Projects

**PROPOSED AMENDMENT NO. 1 TO AGREEMENT 681-2021
WITH KEN W. SMITH CONSTRUCTION, INC. FOR JOB ORDER CONTRACT-PHASE 24,
TO INCREASE THE COMPENSATION AMOUNT; ALL DISTRICTS
(Fiscal Impact: \$1,000,000; General Fund; Budgeted; Discretionary)**

Attached for your Board's approval is Amendment No. 1, to Agreement No. 681-2021, with Ken W. Smith Construction, Inc., for the Job Order Contract (JOC) Phase 24, which provides for construction throughout Kern County by way of a competitively bid, fixed period, fixed unit priced, and indefinite quantity contract.

On November 9, 2021, your Board approved the original Agreement in an amount not to exceed \$1,000,000. This Amendment No. 1 will provide for an increase to the maximum compensation in the amount of \$1,000,000, in preparation of the costs associated with upcoming projects.

Therefore, IT IS RECOMMENDED that your Board: 1) approve Amendment No. 1 to Agreement 681-2021 with Ken W. Smith Construction, Inc. for Job Order Contract-Phase 24, to increase the compensation amount by \$1,000,000, for a new total not to exceed \$2,000,000; and 2) authorize the Chairman to sign.

Sincerely,



Geoffrey Hill
Chief General Services Officer

GH:NP:yz
Attachment

cc: County Administrative Office,
Ken W. Smith Construction, Inc.
2000 Norris Road, Suite #102,
Bakersfield, CA 93308

AMENDMENT NUMBER 1
AGREEMENT FOR THE JOB ORDER CONTRACT, PHASE 24
(County of Kern – Ken W. Smith Construction, Inc.)

THIS AMENDMENT TO AGREEMENT, entered into this day _____, is between the COUNTY OF KERN, a political subdivision of the State of California, (hereinafter called "OWNER") and KEN W. SMITH CONSTRUCTION, INC., a California corporation (hereinafter called "CONTRACTOR"), whose address is 10721 Rio Mesa Drive, Bakersfield California 93308.

WITNESSETH:

WHEREAS, OWNER and CONTRACTOR entered into an agreement for the Job Order, Phase 24 (Agreement #681-2021) dated November 9, 2021 (hereinafter called the "AGREEMENT"); and

WHEREAS, the parties to the AGREEMENT desire to amend the AGREEMENT to provide for a \$1,000,000 increase in the maximum compensation;

NOW, THEREFORE, OWNER and CONTRACTOR do mutually agree as follows:

1. The second sentence of ARTICLE 1, PARAGRAPH 1.01, WORK OF THE CONTRACT of Document 00500 is hereby revised to read as follows:
The Maximum Contract Value is two million dollars (\$2,000,000).
2. The parties agree to the use of electronic signatures using the DocuSign system for any amendments to the AGREEMENT. Electronic signatures shall be as of the same effect as an original signature.
3. All the remaining terms and conditions set forth in the AGREEMENT are continued hereafter in full force and effect, and all parties agree to continue performance in accordance with all terms in the AGREEMENT as amended.

IN WITNESS WHEREOF, this Amendment Number 1 to the AGREEMENT has been executed as of that date first herein above appearing.

APPROVED AS TO CONTENT:

COUNTY OF KERN (OWNER)

BY Geoffrey Hill
Geoffrey Hill, Chief General Services Officer

BY _____
Chairman, Board of Supervisors

APPROVED AS TO FORM:
Office of the County Counsel

KEN W. SMITH CONSTRUCTION, INC.
(CONTRACTOR)

BY Brian Van Wyk
Brian Van Wyk, Deputy

BY Ken W. Smith
KEN W. SMITH, PRESIDENT

To be attached to and form a part of

Bond No. 2326650

Type of
Bond: PERFORMANCE/PAYMENT

ISSUE
DATE: OCTOBER 6, 2021
(MONTH-DAY-YEAR)

executed by KEN W. SMITH CONSTRUCTION, INC.
(PRINCIPAL)

, as Principal,

and by NORTH AMERICAN SPECIALTY INSURANCE COMPANY, as Surety,

in favor of COUNTY OF KERN
(OBLIGEE)

in consideration of the mutual agreements herein contained the Principal and the Surety hereby consent to changing:

THE AMOUNT OF THE BOND HAS INCREASED:

FROM: ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00)

TO: TWO MILLION AND 00/100 DOLLARS (\$2,000,000.00)

Nothing herein contained shall vary, alter or extend any provision or condition of this bond except as herein expressly stated.

This rider
is effective FEBRUARY 18, 2022
(MONTH-DAY-YEAR)

Signed and
Sealed FEBRUARY 18, 2022
(MONTH-DAY-YEAR)

KEN W. SMITH CONSTRUCTION, INC.
(PRINCIPAL)

BY: Ken W. Smith
(PRINCIPAL) KEN W. SMITH, PRESIDENT

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
(Surety)

BY: Mark D. Iatarola
MARK D. IATAROLA, ATTORNEY-IN-FACT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

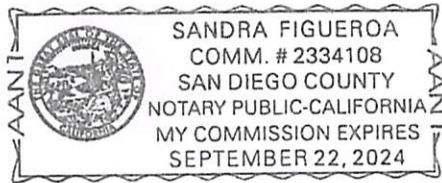
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of SAN DIEGO }

On 2/18/2022 before me, SANDRA FIGUEROA, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officer
 personally appeared MARK D. IATAROLA
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)Signer's Name: MARK D. IATAROLA☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☒ Attorney in Fact☐ Trustee ☐ Guardian of Conservator☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian of Conservator☐ Other: _____

Signer is Representing: _____

SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY
WESTPORT INSURANCE CORPORATION

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Kansas City, Missouri and Washington International Insurance Company a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Kansas City, Missouri, and Westport Insurance Corporation, organized under the laws of the State of Missouri, and having its principal office in the City of Kansas City, Missouri, each does hereby make constitute and appoint:

JOHN G. MALONEY, HELEN MALONEY, SANDRA FIGUEROA, MARK D. IATAROLA, JESSICA SCHMAL,

and TRACY LYNN RODRIGUEZ JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

ONE HUNDRED TWENTY FIVE MILLION (\$125,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on March 24, 2000 and Westport Insurance Corporation by written consent of its Executive Committee dated July 18, 2011.

"RESOLVED, that any two of the President, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By [Signature]
Steven P. Anderson, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company
& Senior Vice President of Westport Insurance Corporation

By [Signature]
Erik Janssens, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company
& Senior Vice President of Westport Insurance Corporation



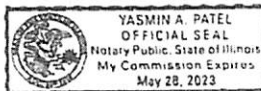
IN WITNESS WHEREOF, North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 12th day of November, 20 21.

North American Specialty Insurance Company
Washington International Insurance Company
Westport Insurance Corporation

State of Illinois
County of Cook ss:

On this 12th day of November, 20 21, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of

Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation and Erik Janssens Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature]
Yasmin A. Patel, Notary

I, Jeffrey Goldberg, the duly elected Senior Vice President and Assistant Secretary of North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 18th day of FEBRUARY, 20 22.

[Signature]
Jeffrey Goldberg, Senior Vice President & Assistant Secretary of Washington International Insurance Company & North American Specialty Insurance Company & Vice President & Assistant Secretary of Westport Insurance Corporation