

Attachment B

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**AMENDMENT NO. 7
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC., DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 7 to the Professional Services Agreement No. A-13085 between the County of Monterey, a political subdivision of the State of California (“County”) and Whitson and Associates, Inc., dba Whitson Engineers (“CONTRACTOR”), is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement No. A-13085 with the County on April 14, 2016 (“Agreement”) to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (“Project”) for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987.00;

WHEREAS, Agreement was amended by the Parties on January 3, 2018 (“Amendment No. 1”) to extend the term for approximately six (6) additional months through June 18, 2018 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on March 2, 2018 (“Amendment No. 2,” including Exhibit A-1 – Scope of Services/Payment Provisions and Exhibit E – State Coastal Conservancy Agreement No. 17-024) to extend the term for approximately eighteen (18) additional months through December 31, 2019, and to increase the amount by \$56,000.00 which resulted in a total not to exceed amount of \$1,169,987.00;

WHEREAS, Agreement was amended by the Parties on December 11, 2019 (“Amendment No. 3”) to update the Indemnification for Design Professional Services Claims provision and to extend the term for three (3) additional years through December 31, 2022 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on May 26, 2020 (“Amendment No. 4,” including Exhibit A-2 – Scope of Services/Payment Provisions) to update the Fee Schedule effective July 1, 2020, to reallocate unused funding in the amount of \$493,090.82 and to increase the amount by \$484,909.18 which resulted in a total not to exceed amount of \$1,654,896.18;

WHEREAS, Agreement was amended by the Parties on December 1, 2020 (“Amendment No. 5,” including Exhibit A-3 – Scope of Services/Payment Provisions) to expand the original scope of the Agreement to include Task 7, Site-Specific ARS Curves and to increase the amount by \$29,000.00 which resulted in a total not to exceed amount of \$1,683,896.18;

WHEREAS, Agreement was amended by the Parties January 25, 2022 (“Amendment No. 6,” including Exhibit A-4 – Scope of Services/Payment Provisions) to expand the original scope of

Amendment No. 7 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
Final Design of the CRFREE Project
Housing and Community Development (HCD)
Term: April 13, 2016 – December 31, 2023
Not to Exceed: \$2,202,228.17

the Agreement and to increase the amount by \$208,193 which resulted in a total not to exceed amount of \$1,892,089.17;

WHEREAS, additional funds are necessary to add Task 9 to coordinate on the development of a concept plan for an alternative to raising historic structures known as the ‘Barn Complex’ on State Parks land, Task 10 for bid support services, and Task 11 for construction phase support services; and

WHEREAS, the Parties wish to further amend the Agreement to expand the Scope of Services, and to increase the amount by \$310,139.00 for a new total not to exceed amount of \$2,202,228.17 to allow CONTRACTOR to continue to provide tasks identified in the Agreement as previously amended and as amended by this Amendment No. 7. The term of the Agreement remains unchanged.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 1, “Services to be Provided,” to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1, A-2, A-3, A-4 and A-5** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, “Payments by County,” to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, A-2, A-3, A-4 and A-5** subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$2,202,228.17

3. Amend Paragraph 4, “Additional Provisions/Exhibits,” by adding “**Exhibit A-5, Scope of Services/Payment Provisions**” to the Agreement.

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Amendment No. 7 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
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Housing and Community Development (HCD)
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Not to Exceed: \$2,202,228.17

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 7 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

PROJECT APPLICANT*

By: _____
Contracts/Purchasing Manager

By: ^{DocuSigned by:} Richard Weber
(Signature of Chair, President or Vice President)

Date: _____

Its: President
(Print Name and Title)

**Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel**

Date: 9/13/2022

By: ^{DocuSigned by:} Kristi Markey
C21D52A9D6 Kristi A. Markey
Deputy County Counsel

By: ^{DocuSigned by:} Kim Wolfman
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Date: 9/14/2022

Its: CFO
(Print Name and Title)

Approved as to Fiscal Provisions

Date: 9/13/2022

By: ^{DocuSigned by:} Gary Giboney
D3834BFEC1D Gary Giboney
Chief Deputy Auditor-Controller

Date: 9/14/2022

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

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EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Whitson and Associates, Inc. dba Whitson Engineers,
hereinafter referred to as “CONTRACTOR”**

A. SCOPE OF SERVICES

- A.1** CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work to include additional services for the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (“Project”), as set forth below:

Task 9. State Parks Barn Complex Berm Alternative

1. Coordinate with the County staff and contractors regarding the State Parks Barn Complex Berm Alternative and develop a concept plan for review by State Parks and for use in preliminary scoping of environmental and permitting impacts by Denise Duffy & Associates.
2. If the berm alternative is selected for implementation, further development of the berm design and incorporate it into the Phase 2 floodplain restoration construction documents.

Task 10. Bid Phase Support Services (Construction)

1. Coordinate with the Project Team during the Bid Phase.
2. Coordinate with the County’s Construction Manager regarding their scope of work, especially related to special inspections and Archaeological and Native American monitoring.
3. Respond to Biddability Review comments.
4. Attend the Pre-Bid Meeting.
5. Respond to questions from bidders, prepare clarifications and specification revisions, and issue a Bid Addendum.
6. If requested, assist the County in reviewing the bids submitted.

Task 11. Construction Phase Support Services (Construction)

1. CONTRACTOR shall coordinate with the Project Team during construction.
2. CONTRACTOR shall assist the County’s Construction Manager with interpretation of construction documents. CONTRACTOR shall prepare written RFI responses to the requesting SUBCONTRACTOR.
3. County shall review CONTRACTOR’s product submittals, shop drawings and substitution requests.
4. CONTRACTOR shall perform site observations as requested by the County’s Construction Manager. Observations shall be for general conformance with the contract documents. CONTRACTOR shall submit to the County’s Construction Manager a written Field Report.
5. CONTRACTOR shall perform a final field review and provide the punch-list to the County’s Construction Manager.

EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS

6. CONTRACTOR shall provide up to four (4) survey “field checks” as requested by the County’s Construction Manager.
7. CONTRACTOR shall provide support during the one- (1-) year warranty period, as requested by the County’s Construction Manager. Work may include field visits and coordination regarding plant establishment work and a one- (1-) year field review and punch-list.

A.2 CONTRACTOR shall produce the deliverables as noted above.

Written reports required under this Agreement shall be delivered in electronic format to the following individual:

Shandy Carroll
 Management Analyst III
 County of Monterey, Housing and Community Development
 1441 Schilling Place, South 2nd Floor
 Salinas, California 93901-4527
 Telephone: (831) 755-5643
 Email: carrolls@co.monterey.ca.us

B. PAYMENT PROVISIONS**B.1 COMPENSATION/ PAYMENT**

County shall pay an increased amount of **\$310,139** for a total not to exceed amount of **\$2,202,228.17** for the performance of all things necessary for or incidental to the performance of work as set forth in this Exhibit A-5. CONTRACTOR's compensation for services rendered shall be based on time and materials basis in accordance with the Agreement’s Fee Schedule (in Exhibit A-2 of this Agreement) and the Proposed Budget below. CONTRACTOR shall be responsible for payment to the SUBCONTRACTORS based on time and materials basis.

Fee Estimate Summary

	Whitson Engineers	Balance Hydrologics	H.T. Harvey	Kleinfelder	10% Admin. Fee	Expenses	Total
Task 4.1e. Tier 1 Restoration Plan for Coastal Permit	\$ -	\$ -	\$ 19,068	\$ -	\$ 1,907	\$ 550	\$ 21,525
Task 9. State Parks Barn Complex Berm Alternative	\$ 6,240	\$ 13,300	\$ 26,358	\$ -	\$ 3,966	\$ 1,000	\$ 50,864
Task 10. Bid Phase Support Services (Phase 1 Construction)	\$ 7,890	\$ 11,520	\$ 2,000	\$ -	\$ 1,352	\$ -	\$ 22,762
Task 11. Construction Phase Support Services (Phase 1 Construction)	\$ 59,420	\$ 78,280	\$ 42,418	\$ 8,000	\$ 12,870	\$ 14,000	\$ 214,988
Total	\$ 73,550	\$ 103,100	\$ 89,844	\$ 8,000	\$ 20,094	\$ 15,550	\$ 310,138

EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS**Labor Estimate
Bid and Construction Phase Support Services (Construction)**

WE # 2172.08

7/22/2022

Fee Schedule T41

Task 9. State Parks Barn Complex Berm Alternative

	Whitson Engineers					HOURS	COST
	PE	SCE	CE	AE	1P		
1 Coordination and development of concept plan		16				16	\$ 3,120
2 Incorporate into Phase 2 construction documents		16				16	\$ 3,120
Subtotal	0	32	0	0	0	32	\$ 6,240
Rate	\$ 240	\$ 195	\$ 175	\$ 150	\$ 210		
Cost	\$ -	\$ 6,240	\$ -	\$ -	\$ -		\$ 6,240
							Total \$ 6,240

Task 10. Bid Phase Support Services (Construction)

	Whitson Engineers					HOURS	COST
	PE	SCE	CE	AE	1P		
1 General Coordination	2	8				10	\$ 2,040
2 Coordination w/ Harris & Associates		8				8	\$ 1,560
3 Biddability Review		8				8	\$ 1,560
4 Pre-Bid Meeting		4				4	\$ 780
5 Bid Addendum		8				8	\$ 1,560
6 Review Bids		2				2	\$ 390
Subtotal	2	38	0	0	0	40	\$ 7,890
Rate	\$ 240	\$ 195	\$ 175	\$ 150	\$ 210		
Cost	\$ 480	\$ 7,410	\$ -	\$ -	\$ -		\$ 7,890
							Total \$ 7,890

Task 11. Construction Phase Support Services (Construction)

	Whitson Engineers					HOURS	COST
	PE	SCE	LS	AE	1P		
1 General coordination and meetings		40				40	\$ 7,800
2 Respond to RFIs		40				40	\$ 7,800
3 Review Contractor Submittals		8				8	\$ 1,560
4 Site Observations (as requested; allowance)	4	40				44	\$ 8,760
5 Final field review, punch-list, coordination	4	16				20	\$ 4,080
6 Field Surveying (as requested; allowance)	4	20	20		40	84	\$ 16,760
7 Support during 1-year warranty period	4	20				24	\$ 4,860
Subtotal	16	184	20	0	40	260	\$ 51,620
Rate	\$ 240	\$ 195	\$ 175	\$ 150	\$ 210		
Cost	\$ 3,840	\$ 35,880	\$ 3,500	\$ -	\$ 8,400		\$ 51,620
							Total \$51,620

CONTRACTOR agrees that pursuant to Labor Code Section 1771, not less than general prevailing rate of per diem wages shall be paid to all workers employed on any public work projects in excess of one thousand dollars (\$1,000).

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel expenses as per the "County Travel and Business Expense Reimbursement Policy." A copy of the policy is available online at:

<https://www.co.monterey.ca.us/home/showdocument?id=69364>.

To receive reimbursement, CONTRACTOR shall provide a detailed breakdown of authorized expenses, identifying what was expended and when.

EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

B.2 CONTRACTOR'S BILLING PROCEDURES

Payment shall be based upon satisfactory acceptance of each deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number **MYA 3200*2218**, Project Name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to PWFP-Finance-AP@co.monterey.ca.us:

County of Monterey
Public Works, Facilities and Parks (PWFP) - Finance
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the Public Works, Facilities and Parks - Finance at (831) 755-4800 or via email to: PWFP-Finance-AP@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

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