

Attachment 9

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**AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 1 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on May 1, 2013 (hereinafter, "Agreement"); and

WHEREAS, Task 1, Project Initiation and Scope Confirmation, Task 2, Data Collection and Technical Input, and Task 3, Carmel Lagoon Projects Conceptual Proposed Action have been completed for Phase 1 to provide a Programmatic Biological Assessment and Initial Study for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project"); and

WHEREAS, additional time is required to allow CONTRACTOR to continue to provide tasks to complete the Project; and

WHEREAS, the Parties wish to amend the Agreement to extend the term to April 23, 2015 with no associated dollar amount increase to allow CONTRACTOR to continue to provide tasks identified in the Agreement.

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

1. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 23, 2013 to April 23, 2015, unless sooner terminated pursuant to the terms of this Agreement.

2. All other terms and conditions of the Agreement remain unchanged and in full force.

3. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 1 to Professional Services Agreement
Denise Duffy & Associates, Inc.
Carmel River Lagoon Area Projects
RMA – Planning
Term: April 23, 2013 – April 23, 2015
Not to Exceed: \$353,100.00

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement as of the last date opposite the respective signatures below:

COUNTY OF MONTEREY

By: _____

[Signature]
Contracts/Purchasing Officer, MBA
Deputy Purchasing Agent
County of Monterey

Date: _____

4.10.14

**Approved as to Form and Legality
Office of the County Counsel**

By: _____

[Signature]
Deputy County Counsel

Date: _____

4-8-2014

Approved as to Fiscal Provisions

By: _____

[Signature]
Auditor/Controller

Date: _____

4-3-14

Approved as to Indemnity, Insurance Provisions

By: _____

Risk Management

Date: _____

*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the 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.

CONTRACTOR*

Denise Duffy & Associates, Inc.

Contractor's Business Name

By: _____

[Signature]
(Signature of Chair, President or Vice President)

Its: _____

Denise Duffy, President

(Printed Name and Title)

Date: _____

4/2/14

By: _____

[Signature]
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Its: _____

Denise Duffy, Secretary

(Printed Name and Title)

Date: _____

4/2/14

Amendment No. 1 to Professional Services Agreement
Denise Duffy & Associates, Inc.
Carmel River Lagoon Area Projects
RMA - Planning
Term: April 23, 2013 - April 23, 2015
Not to Exceed: \$353,100.00

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDate (MM/DD/YR)
11/7/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

Heffernan Professional Practice Insurance Brokers
License No. 0564249
6 Hutton Centre Dr., Ste 500
Santa Ana, CA 92707

**CONTACT
NAME:**

Jackie Riola

PHONE

(A/C, No, Ext): 714-361-7700

FAX

(A/C, No): 714-361-7701

EMAIL

ADDRESS: JackieR@heffins.com

INSURERS AFFORDING COVERAGE**NAIC #**

INSURER A: Citizens Insurance Co of America

31534

INSURER B: Hanover American Insurance Co

36034

INSURER C: Continental Casualty Co

20443

INSURER D:

INSURER E:

INSURER F:

INSURED

Denise Duffy & Associates, Inc.
947 Cass St., Ste 5
Monterey, CA 93940

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL L LIABILITY						EACH OCCURRENCE \$1,000,000
	☒ COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000
	CLAIMS-MADE ☒ OCCUR	X		OB3916991202	09/01/13	09/01/14	MED EXP (Any one person) \$5,000
							PERSONAL & ADV INJURY \$1,000,000
							GENERAL AGGREGATE \$2,000,000
							PRODUCTS - COMP/OP AGG \$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER						\$
	☐ POLICY ☒ PROJECT ☐ LOC						
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$1,000,000
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS			OB3916991202	09/01/13	09/01/14	BODILY INJURY (Per accident) \$
	☒ HIRED AUTOS	X					PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
B	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY	Y/N					☒ WC STATUTORY LIMITS ☐ OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in N.H.)	☐	N/A	WZ3916990602	09/01/13	09/01/14	E.L. EACH ACCIDENT \$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$1,000,000
							E.L. DISEASE - POLICY LIMIT \$1,000,000
C	PROFESSIONAL LIABILITY			EEH276198480	11/05/13	11/05/14	Per Claim Aggregate \$1,000,000
							\$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Projects as on file with the insured including not limited to Carmel Lagoon Project. The County of Monterey, Its Officers, Agents and Employees are named as additional insured (primary) on General Liability and Automobile Liability policies per the attached endorsement.

CERTIFICATE HOLDER

County of Monterey
Resource Management Agency
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

I. Additional Insured by Contract, Agreement or Permit

Under **SECTION II – LIABILITY, C. Who Is An Insured**, Paragraph 4. is added as follows:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

~~(1) Your acts or omissions; or~~

- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or

- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

- b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or

"personal and advertising injury";

- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;

- (3) To any lessor of equipment:

- (a) After the equipment lease expires; or

- (b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;

- (4) To any:

- (a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or

- (b) Managers or lessors of premises if:

- (i) The occurrence takes place after you cease to be a tenant in that premises; or

- (ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or

- (5) To "bodily injury", "property damage" or "personal and

advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

- c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.
- d. All other insuring agreements, exclusions, and conditions of the policy apply.

II. Additional Insured by Contract, Agreement or Permit – Primary and Non-contributory

The following is added to **SECTION III – COMMON POLICY CONDITIONS:**

M. Other Insurance

1. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - LIABILITY, Part C – Who is An Insured**, is

primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under **SECTION II – LIABILITY, Part A. Coverages, Paragraph 1., Business Liability** our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When **b.(2)** below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.(3)** below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of **SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability.**

When this insurance is excess, we will have no duty under **SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. ~~Under this method, each insurer's~~ share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

III. Aggregate Limit of Insurance (Per Project)

a. For purposes of the coverage provided by this endorsement, **D. Liability and Medical Expenses Limits of Insurance** under **Section II – Liability** is amended by adding the following:

The General Aggregate Limit under **D. Liability and Medical Expenses Limits of Insurance** applies separately to each of "your projects" or each location listed in the Declarations.

b. For purposes of the coverage provided by this endorsement **F. Liability And Medical Expenses Definitions** under **Section II - Liability** is amended by adding the following:

a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
- ii. Does not include any location listed in the Declarations.

IV. Blanket Waiver of Subrogation

Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us** in **Section III – Common Policy Conditions** is amended by the addition of the following:

We will waive any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA - HIRED AUTO AND NON-OWNED AUTO LIABILITY

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Coverage		Additional Premium
A.	Hired Auto Liability:	\$
B.	Non-Owned Auto Liability:	\$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

A. Throughout this endorsement the term spouse means:

Spouse or a registered domestic partner under California law.

B. Insurance is provided only for those coverages for which a specific premium charge is shown in the Declarations or in the Schedule.

1. Hired Auto Liability

The insurance provided under Paragraph **A.1. Business Liability** in **Section II - Liability**, applies to "bodily injury" or "property damage" arising out of the maintenance or use of a "hired auto" by you or your "employees" in the course of your business.

2. Non-Owned Auto Liability

The insurance provided under Paragraph **A.1. Business Liability** in **Section II - Liability**, applies to "bodily injury" or "property damage" arising out of the use of any "non-owned auto" in your business by any person.

C. For insurance provided by this endorsement only:

1. The exclusions, under the Paragraph **B.1. Applicable To Business Liability Coverages** in **Section II - Liability**, other than Exclusions **a., b., d., f. and i.** and the Nuclear Energy Liability Exclusion, are deleted and replaced by the following:

a. "Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) ~~Performing duties related to the~~ conduct of the insured's business; or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

- (2) To any obligation to share damages with or repay someone else who must pay damages because of injury.

This exclusion does not apply to:

- (1) Liability assumed by the insured under an "insured contract"; or
- (2) "Bodily injury" arising out of and in the course of domestic employment by the insured unless benefits for such injury are in whole or in part either payable or required to be provided under any workers compensation law.

b. "Property damage" to:

- (1) Property owned or being transported by, or rented or loaned to the insured; or
- (2) Property in the care, custody or control of the insured.

2. Paragraph C. Who Is An Insured in Section II - Liability, is replaced by the following:

- 1. Each of the following is an insured under this endorsement to the extent set forth below:

- a. You;
- b. Any other person using a "hired auto" with your permission;
- c. For a "non-owned auto":
 - (1) Any partner or "executive officer" of yours; or
 - (2) Any "employee" of yours but only while such "non-owned auto" is being used in your business; and
- d. Any other person or organization, but only for their liability because of acts or omissions of an insured under a, b, or c. above.

- 2. None of the following is an insured:

- a. Any person engaged in the business of his or her employer for "bodily injury" to any co-"employee" of such person injured in the course of employment, or to the spouse, child, parent, brother or sister of that co-"employee" as a consequence of such "bodily injury", or for any obligation to share damages with or repay someone else who must pay damages because of the injury;

- b. Any partner or "executive officer" for any "auto" owned by such partner or officer or a member of his or her household;

- c. Any person while employed in or otherwise engaged in duties in connection with an "auto business", other than an "auto business" you operate;

- d. The owner or lessee (of whom you are a sublessee) of a "hired auto" or the owner of a "non-owned auto" or any agent or "employee" of any such owner or lessee; or

- e. Any person or organization for the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

D. The following additional definitions apply:

- 1. "Auto Business" means the business or occupation of selling, repairing, servicing, storing or parking "autos".
- 2. "Hired Auto" means any "auto" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", your partners or your "executive officers" or members of their households.
- 3. "Non-Owned Auto" means any "auto" you do not own, lease, hire, rent or borrow which is used in connection with your business. This includes "autos" owned by your "employees", your partners or your "executive officers", or members of their households, but only while used in your business or your personal affairs.



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 04-28-2014

DO 3000 0000004959

IMPORTANT

THE ABOVE NUMBER AND SHIP TO DEPARTMENT MUST
APPEAR ON ALL SHIPPING LABELS, PACKING SLIPS,
TRANSPORT DOCUMENTS, INVOICES AND CORRESPONDENCE.

DENISE DUFFY & ASSOCIATES

947 Cass Street Ste 5

Monterey CA 93940

VENDOR: CV000001806

S H P T O
PLANNING & BLDG/ INSPECTION
168 W. ALISAL ST., 2ND FLOOR
SALINAS CA 93901

B I L T O
PLANNING & BLDG/ ALISAL
168 W. ALISAL ST
2ND FLOOR
SALINAS CA 93901

DELIVERY DATE: F.O.B.:

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
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PURCH DESC: THIS PURCHASE ORDER IS ISSUED TO EXTEND THE TERM OF AGREEMENT PER AMENDMENT NO. 1. THIS IS TO
PROVIDE A PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY FOR PROJECTS LOCATED IN THE CARMEL RIVER
LAGOON AREA AND A CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN
(MYA *844)

THE TERM OF THIS AGREEMENT IS FROM 04/23/13 - 04/23/15 AND SHALL NOT EXCEED \$353,100.00

THIS PURCHASE ORDER IS VALID FROM 07/01/13 - 06/30/14 AND SHALL NOT EXCEED \$305,927.55.

1 0.0 92642

COMM LINE DESC: Env Svc (Not Otherwise Classified)

EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON

MSDS: Not Required

001 - 1050 - 8038 - CAO017 - 5613 -

305927.55

.00 .00 305,927.55

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL 305,927.55

All Vendors are required to review the Monterey County general terms and conditions which apply to all contracts, purchase orders, and other electronic procurements made with the County unless otherwise noted. Said terms and conditions can be found on the County website at http://www.co.monterey.ca.us/admin/terms_conditions.htm

TAX EXEMPTION INFORMATION:

FEDERAL EXCISE TAX EXEMPTION NUMBER 94-6000524

AUTHORIZED BY COUNTY OF MONTEREY
DEPUTIZED PURCHASING AGENT

Michael R. Taylor

COUNTY BUYER INFORMATION

TELEPHONE:
EMAIL:

PRINT DATE: 04/30/14

CONTRACTS/PURCHASING DIVISION
168 W. Alisal St. 3rd Floor, Salinas, CA 93901

PAGE NUMBER: 1 OF 1