

Attachment D

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Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

Agreement No.: A-13085

- a. Approve Amendment No. 5 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, to increase the not-to-exceed amount by \$29,000, for a total amount not to exceed \$1,683,896, with no extension to the term from April 13, 2016 to December 31, 2022; and
- b. Authorize the Director of Housing and Community Development to execute Amendment No. 5 and up to two (2) future amendments where the amendments do not significantly alter the scope of work or increase the approved Agreement amount, subject to the review and approval of the Office of County Counsel as to form.

PASSED AND ADOPTED on this 1st day of December 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams
NOES: None
ABSENT: None
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting December 1, 2020.

Dated: December 1, 2020
File ID: A 20-494
Agenda Item No.: 42

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Joel G. Pablo, Deputy

**AMENDMENT NO. 5
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC. DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 5 to Professional Services Agreement No. A-13085 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Whitson and Associates, Inc. dba Whitson Engineers (hereinafter, "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 Professional Services Agreement No. A-13085 with County on April 14, 2016 (hereinafter, "Agreement") to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, "Project") for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987; and

WHEREAS, Agreement was amended by the Parties on January 3, 2018 (hereinafter, "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; and

WHEREAS, Agreement was amended by the Parties on March 2, 2018 (hereinafter, "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 which resulted in a total not to exceed amount of \$1,169,987; and

WHEREAS, Agreement was amended by the Parties on December 11, 2019 (hereinafter, "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; and

WHEREAS, Agreement was amended by the Parties on May 26, 2020 (hereinafter, "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; and

WHEREAS, due to the latest requirements from the California Department of Transportation (Caltrans), a site-specific site response analysis and site-specific acceleration response spectral (ARS) curves are necessary for the Project; and

WHEREAS, the Parties have identified the need to expand the original scope of the Agreement to include Task 7, Site-Specific ARS Curves, as further set out in Exhibit A-3 of this Agreement, attached hereto and incorporated herein by reference; and

WHEREAS, additional funding is necessary to allow CONTRACTOR to complete tasks for the Project; and

WHEREAS, the Parties wish to further amend the Agreement to increase the amount by \$29,000.00 for a total amount not to exceed \$1,683,896.18 to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 5.

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

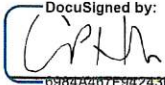
1. Amend the first sentence of Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibits A, A-1, A-2, and A-3 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, and A-3, 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 \$1,683,896.18.
3. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-3, Scope of Services/Payment Provisions" to the Agreement.
4. The "Delivery Dates" for Tasks 2, 3, 4, 5 and 6 referenced in Exhibit A of the Agreement and for Task 7 referenced in Exhibit A-3 of the Agreement, are hereby amended to extend through December 31, 2022, to conform to the amended term of the Agreement.
5. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
6. This Amendment No. 5 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
7. The recitals to this Amendment No. 5 are incorporated into the Agreement and this Amendment No. 5.

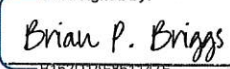
IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 5 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: 
DocuSigned by:
09847A407F94243E
Carl P. Holm, AICP
Housing and Community Development Director

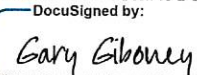
Date: 12/11/2020

Approved as to Form
Office of the County Counsel-Risk Manager
Leslie J. Girard, County Counsel-Risk Manager

By: 
DocuSigned by:
B162D1AF861147F...
Brian P. Briggs
Deputy County Counsel

Date: 10/28/2020

Approved as to Fiscal Provisions

By: 
DocuSigned by:
D3834BFEC1D8449...
Gary Giboney
Auditor/Controller

Date: 10/28/2020

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Manager

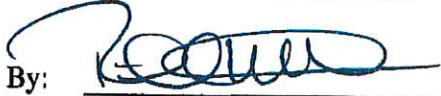
By: _____
Leslie J. Girard
County Counsel-Risk Manager

Date: _____

*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.


CONTRACTOR*

Whitson and Associates, Inc.
dba Whitson Engineers
Contractor's Business Name

By: 
(Signature of Chair, President or Vice President)

Its: Richard Weber, President
(Print Name and Title)

Date: 10/27/2020

By: 
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: Kimberley Woltman, CFO
(Print Name and Title)

Date: 10/27/2020

EXHIBIT A-3 - 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 (hereinafter, "Project"), as set forth below:

Provide a site response analysis for the Project in preparation for the Final Foundation Report (FR) and Geotechnical Design Report (GDR).

Background:

Based on review of the available data there is significant amount of liquefaction at the Project site thus classifying the site as Site Class F per Caltrans Seismic Design Criteria (SDC) Version 2.0 (April 2019). Based on discussions with Caltrans, a site-specific site response analysis is required to develop the site-specific acceleration response spectral (ARS) for this Project.

Task 7. Site-Specific ARS Curves (Kleinfelder, Inc., subcontractor to CONTRACTOR)

To perform site response analysis, time histories spectrally modified to a target ARS are needed. The target ARS is the base spectrum at a depth where a rocklike material is expected; or, if the rocklike material is very deep, then at a depth where competent and very dense soils are anticipated. It is anticipated that soils will extend to significant depth below the site and as such a competent/dense material boundary will be used. A target ARS will be developed using ARS online tool (Version 3.0.2). The scope of the site response analysis includes the following:

- Based on the results of field investigation and laboratory tests, develop two (2) idealized soil profiles for the Project: one (1) for each abutment. Bottom of these soil profiles will extend to either bedrock/rocklike material or to a depth of competent/dense soils.
- Estimate VS30 at the depth which was selected as the bottom of the soil profile for site response analysis.
- Develop target ARS using Caltrans ARS online Version 3.0.2 and using VS30 value at the bottom of the soil profile.
- Using United States Geological Survey (USGS) Unified Hazard Tool, perform deaggregation analyses of the hazard to estimate the controlling seismic source(s) and their distances associated with the period ranges of interest.
- Select and spectrally modify seven (7) ground acceleration time histories based on the spectral shape, earthquake magnitude, distance, and frequency content from historical earthquake records.
- Perform equivalent linear and nonlinear (total stress) site response analyses using computer program DEEPSOIL for two (2) soil profiles using seven (7) time histories

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- Develop site-specific ARS using the results of site response analyses.

Deliverables:

- *Site Response Analysis Report, which will be attached as an Appendix to FR.*

Any newly identified tasks not included herein shall not be conducted by CONTRACTOR until presented to County in writing and with County approval, amended into this Agreement.

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 Department
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 **\$29,000.00** for a total not to exceed amount of **\$1,683,896.18** for the performance of all things necessary for or incidental to the performance of work as set forth in this Exhibit A-3. 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.

**Proposed Budget
Task 7, Site-Specific ARS Curves**

	Whitson Engineers	Balance Hydrologics	Cornerstone Structural Engineering Group	H.T. Harvey	Kleinfelder	Avila Consulting Engineers	ARWS	Blerman Hydro- geologic	Aurum Consulting Engineers	10% Admin. Fee	Expenses (see expense worksheet)	Total
Site-Specific ARS Curves	\$ 368		\$ 400		\$ 25,629					\$ 2,603	\$ -	\$ 29,000

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

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

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.

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 3000*2218**, Project Name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP@co.monterey.ca.us:

County of Monterey
Housing and Community Development Department - Finance
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the Housing and Community Development Department - Finance at (831) 755-4800 or via email to: RMA-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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