

Attachment P

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Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement No.: A-12775

Upon motion of Supervisor Phillips, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

- a. Approved Amendment No. 3 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc. for environmental review and regulatory permitting services associated with the Carmel River Floodplain Restoration and Environmental Enhancement Project to: expand the scope of services; increase the not to exceed amount of \$327,864 by \$47,375 for a total amount not to exceed \$375,239; and extend the term of the Agreement from July 29, 2017 to June 30, 2018, for a revised term from July 29, 2014 to June 30, 2018; and
- b. Authorize the Contracts/Purchasing Officer or the Contracts/Purchasing Supervisor to execute Amendment No. 3 to Professional Services Agreement No. A-12775 and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount.

PASSED AND ADOPTED on this 24th day of January 2017, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams

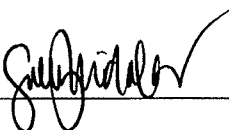
NOES: None

ABSENT: None

I, Gail T. Borkowski, 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 79 for the meeting on January 24, 2017.

Dated: February 7, 2017
File ID: 17-0048

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By  Deputy

**AMENDMENT NO. 3
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 3 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") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on August 1, 2014 (hereinafter, "Agreement") to provide environmental documentation, California Environmental Quality Act (CEQA)/National Environmental Quality Act (NEPA), and regulatory permitting for the Carmel River Floodplain Restoration and Environmental Enhancement Project (hereinafter, "Project") through June 30, 2016 for an amount not to exceed \$256,769.25; and

WHEREAS, Agreement was amended by the Parties on September 11, 2015 (hereinafter, "Amendment No. 1", including Exhibit A-1 – Scope of Services/Payment Provisions) to extend the term for approximately thirteen (13) additional months through July 29, 2017 and to increase the amount by \$65,000.00 which resulted in a not to exceed amount of \$321,769.25; and

WHEREAS, Agreement was amended by the Parties on May 6, 2016 (hereinafter, "Amendment No. 2", including Exhibit A-2 - Scope of Services/Payment Provisions) to reallocate funding within the Agreement in the amount of \$33,500.00 from existing tasks to expand tasks required by the United States Fish and Wildlife Service (USFWS) and the California Department of Transportation (Caltrans) and to increase the amount by \$6,095.00 which resulted in a not to exceed amount of \$327,864.25 with no extension to the Agreement's term; and

WHEREAS, Task 1, Project Initiation, of the Agreement has been completed; and

WHEREAS, due to new information and on-going coordination and negotiations between the County, California Department of Parks and Recreation (DPR) and Carmel Area Wastewater District (CAWD), the Parties have identified the need to expand Task 2.2, Task 3.4, Task 4, and Task 6 of the original scope of work for completion of the Project, as further set out in Exhibit A-3, attached hereto and incorporated herein by reference; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for approximately eleven (11) additional months to June 30, 2018 and to increase the amount by \$47,375 for a total amount not to exceed \$375,239.25 to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 3.

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 \$375,239.25.
3. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from July 29, 2014 to June 30, 2018, unless sooner terminated pursuant to the terms of this Agreement.
4. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-3, Scope of Services/Payment Provisions."
5. All other terms and conditions of the Agreement remain unchanged and in full force.
6. This Amendment No. 3 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. 3 are incorporated into the Agreement and this Amendment No. 3.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 3 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: [Signature]
Contracts/Purchasing Officer

Denise Duffy & Associates, Inc.
Contractor's Business Name

Date: 2-9-17

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

Its: Denise Duffy, President
(Print Name and Title)

Date: 12/16/16

Approved as to Form and Legality
Office of the County Counsel

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

By: [Signature]
Wendy S. Strimling
Senior Deputy County Counsel

Its: Denise Duffy, Secretary
(Print Name and Title)

Date: 12/21/16

Date: 12/16/16

Approved as to Fiscal Provisions

By: [Signature]
Auditor/Controller

Date: 12/21/16

Approved as to Indemnity and 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.

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between
County of Monterey, hereinafter referred to as "County"
and
Denise Duffy & Associates, Inc., hereinafter referred to as "CONTRACTOR"

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide additional services and staff, and otherwise do all things necessary for or incidental to the performance of work for the Carmel River Floodplain Restoration and Environmental Enhancement Project (hereinafter, "Project"), as set forth below:

Task 1. Project Initiation

CONTRACTOR has completed the work described under this task for the Project. No increase to the original amount is required.

Task 2. Prepare National Environmental Protection Act (NEPA) Required Technical Studies

CONTRACTOR has identified new information and has coordinated with the County, California Department of Parks and Recreation (hereinafter, "DPR"), and the Carmel Area Wastewater District (hereinafter, "CAWD") to expand the services of the tasks below for the Project.

Task 2.2. Section 106 Documents

- Preparation of a technical memo identifying downstream impacts and mitigation approach
- Development of mitigation measures for DPR barn complex
- Re-initiation of Section 106 consultation
- Review and integration of mitigations resulting from Native American consultation

CONTRACTOR has not yet completed the work described under this task for the Project and requests an additional **\$16,725.00** for completion of Task 2.2.

Task 3. Preparation of the Combined California Environmental Quality Act (CEQA)/NEPA Document

CONTRACTOR, based on the new information available and outcomes of the ongoing coordination with County, DPR and CAWD, has developed the expanded services of the tasks below for the Project.

Task 3.4. Prepare Screencheck and Public Review Draft Initial Study (IS)/Mitigated Negative Declaration (MND)/Environmental Assessment (EA)/ Finding of No Significant Impact (FONSI) and Noticing

- Update Project Description

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- Update draft environmental documentation specific to maintenance of the Maintained Floodway Conveyance Areas (hereinafter, "MFCAs"), CAWD outfall pipe, DPR barn complex and trails

CONTRACTOR has not yet completed the work described under this task for the Project and requests an additional **\$13,100.00** for completion of Task 3.4.

Task 4. Regulatory Permitting

CONTRACTOR has worked with the County and regulatory agencies to identify the permit process to address additional Project complexity, which requires an increase in staff time for regulatory coordination, document preparation and review.

CONTRACTOR has not yet completed the work described under this task for the Project and requests an additional **\$15,000.00** for completion of Task 4.

Task 5. Project Management

CONTRACTOR has not yet completed the work described under this task for the Project. No increase to the original amount is required.

Task 6. Meetings

CONTRACTOR continues to participate in bi-weekly Project coordination meetings, and due to unanticipated project complexity requires additional staff to participate in biweekly meetings.

CONTRACTOR requests an additional **\$2,550.00** to have two (2) staff members participate in Project meetings through the duration of the Project.

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an increased amount of **\$47,375.00** for a total amount not to exceed **\$375,239.25** for the completion of tasks identified in this Exhibit A-3, Scope of Services/Payment Provisions. The total not to exceed amount of this Agreement is **\$375,239.25** for the performance of all things necessary for or incidental to the performance of work as set forth in Exhibits A, A-1, A-2 and A-3 of this Agreement. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged 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 the work completed per task as outlined in the CONTRACTOR's monthly invoice.

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

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 Multi-Year Agreement (MYA) number (MYA#3000*1375), Project name and associated Purchase Order number, and an original hardcopy shall be sent to the following:

County of Monterey
Resource Management Agency – Finance Division
168 West Alisal Street, 2nd Floor
Salinas, California 93901

Any questions pertaining to invoices under this Agreement shall be directed to the RMA Finance Division at (831) 755-4800.

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.

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

| Denise Duffy & Associates, Inc. | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|-------------------------|----------------------|
| Cost Estimate for | | | |
| Amendment No. 3 to the Professional Services Agreement (PSA) for the Carmel River Floodplain Restoration and Environmental Enhancement Project | | | |
| Task # | Task Description | Subtask Increase Totals | Task Increase Totals |
| 1. | Project Initiation (No Change) | | \$ - |
| | | \$ - | |
| 2. | Prepare NEPA Required Technical Studies | | \$ 16,725.00 |
| 2.2 | Section 106 Documents | \$ 16,725.00 | |
| 3. | Preparation of the Combined CEQA/NEPA Document | | \$ 13,100.00 |
| 3.4 | Prepare Screencheck and Public Draft IS/MND/ES/FONSI and Noticing | \$ 13,100.00 | |
| 4. | Regulatory Permitting | | \$ 15,000.00 |
| | Additional Regulatory Permitting | \$ 15,000.00 | |
| 5. | Project Management (No Change) | | \$ - |
| | | \$ - | |
| 6. | Meetings | | \$ 2,550.00 |
| | Additional County Staff/Contractor Meetings | \$ 2,550.00 | |
| | Total Amendment No. 3 Budget Increase | | \$ 47,375.00 |
| | Total PSA and Amendments No. 1-2 Original Budget | | \$ 327,864.25 |
| | Total PSA Revised Budget | | \$ 375,239.25 |

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

PAYMENT PROVISIONS

Invoices for services/work products/deliverables under this Agreement shall be submitted monthly, shall identify the document or work product being delivered, include monthly progress reports, state the percentage of task completion, state the percentage of budget expended to date, and shall include the following:

1. Invoice Coversheet

Denise Duffy & Associates, Inc.

Carmel River Floodplain Restoration and Environmental Enhancement Project

Date: _____

Invoice No. _____

Original Agreement Amount/Term: \$256,769.25; July 29, 2014 – June 30, 2016
Amendment No. 1: \$65,000.00; Extension of Term to July 29, 2017
Amendment No. 2: \$ 6,095.00 and Reallocation of Funds
Amendment No. 3: \$47,375.00; Extension of Term to June 30, 2018

Table with 3 columns: Task, Amount, Description. Rows include Task 1 (Project Initiation), Task 2 (Prepare NEPA Required Technical Studies), Task 3 (Preparation of the Combined CEQA/NEPA Document), Task 4 (Regulatory Permitting), Task 5 (Project Management), Task 6 (Meetings), and Total Increase (\$47,375.00).

Remaining Balance \$ _____

Approved as to Work/Payment: _____ Date
Melanie Beretti, RMA Service Manager

2. Invoice Detail

Each invoice shall indicate the hours worked by task and by staff member, with the corresponding billing rates.

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