

Attachment C

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Monterey County Board of Supervisors

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1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

Board Order

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor Chris Lopez to

Agreement No.: A-13085; Amendment No.: 6 Whitson Engineers

Agreement No.: A-12775; Amendment No.: 6 Denise Duffy & Associates, Inc.

a. Approve Amendment No.6 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) 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 \$208,193, for a total amount not to exceed \$1,892,089, and to extend the term an additional twelve months, for a term from April 13, 2016 to December 31, 2023; and

b. Approve Amendment No. 6 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc. (DDA) to increase the not to exceed amount of \$562,727 by \$113,721 for a total amount not to exceed \$676,448 to allow the completion of tasks, and to extend the term an additional twelve months for a term from July 29, 2014, to December 31, 2023; and

c. Authorize the Housing and Community Development Director to execute Amendment No. 6 to Professional Services Agreement No. A-12775 with Whitson, and Amendment No.6 to Professional Services Agreement No. A-13085 with DDA, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.

PASSED AND ADOPTED on this 8th day of February 2022, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew 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 February 8, 2022.

Dated: February 14, 2022

File ID: 22-107

Agenda Item No.: 47

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

A handwritten signature in blue ink that reads "Julian Lorenzana".

Julian Lorenzana, Deputy

**AMENDMENT NO. 6
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 6 to Professional Services Agreement No. A-12775 between the County of Monterey, a political subdivision of the State of California ("County") and Denise Duffy & Associates, Inc. ("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-12775 with County on August 1, 2014 ("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 ("Project") beginning July 29, 2014 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 ("Amendment No. 1," including Exhibit A-1 - Scope of Services/Payment Provisions, Exhibit B - SAP Contract No. 4600010665, and Exhibit C - Monterey County Drug-Free Workplace Policy) 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 ("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 term; and

WHEREAS, Agreement was amended by the Parties on February 9, 2017 ("Amendment No. 3," including Exhibit A-3 - Scope of Services/Payment Provisions) to extend the term for approximately eleven (11) additional months through June 30, 2018, to expand the scope of services, and to increase the amount by \$47,375.00 which resulted in a not to exceed amount of \$375,239.25;

WHEREAS, Agreement was amended by the Parties on March 2, 2018 ("Amendment No. 4," including Exhibit A-4 - Scope of Services/Payment Provisions) to extend the term for approximately eighteen (18) additional months through December 31, 2019 and to increase the amount by \$187,488 which resulted in a total not to exceed amount of \$562,727.25; and

WHEREAS, Agreement was amended by the Parties on December 11, 2019 ("Amendment No. 5," including Exhibit B-1 - Amendment No. 1 to SAP Contract No. 4600010665," effective June 18, 2018) to extend the term for three (3) additional years to December 31, 2022, with no associated dollar amount increase to allow CONTRACTOR to continue to provide tasks identified in the Agreement as previously amended;

WHEREAS, Exhibit D, State Coastal Conservancy Agreement No. 17-024, of Agreement was removed from the Agreement in its entirety and Task 2.1, Natural Environmental Study, Task 3.1, California Environmental Quality Act (CEQA)/National Environmental Protection Act (NEPA) Project and Alternative Descriptions, Task 3.2, Prepare 1st Administrative Draft CEQA/NEPA Document, Task 3.3, Prepare 2nd Administrative Draft Initial Study (IS)/Mitigated Negative Declaration (MND)/Environmental Assessment (EA)/Finding of No Significant Impact (FONSI), Task 3.5, Respond to Public Comments and Prepare 1st Administrative Draft Final Document, Task 3.6, Prepare 2nd Administrative Draft Final Document and Draft Mitigation Monitoring and Reporting Program (MMRP), Task 3.7, Prepare Screencheck Draft Final, Task 4.1, Permitting, and Task 6.1, County Staff/Consultants Permitting Meetings, were completed;

WHEREAS, due to increased environmental permitting work and the need to conduct a tree survey, additional time and funds are necessary;

WHEREAS, the Parties wish to further amend the Agreement to extend the term for one (1) additional year to December 31, 2023, to expand the Scope of Services, and to increase the not to exceed amount by \$113,721.00 for a new not to exceed amount of \$676,448.25 to allow CONTRACTOR to continue to provide tasks identified in the Agreement as previously amended and as amended by this Amendment No. 6;

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:

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 **\$676,448.25**.

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 December 31, 2023, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, "Additional Provisions/Exhibits," to add "Exhibit A-5 – Scope of Services/Payment Provisions."

5. Amend Paragraph 14, "Notices," to read as follows:

FOR COUNTY:

Shandy Carroll, Management Analyst III
County of Monterey, Housing and Community Development
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901-4527
(831) 784-5643
Email: 194-HCD-Contracts@co.monterey.ca.us

6. In all places within the Agreement, any reference to the Resource Management Agency (RMA) is hereby replaced with Housing and Community Development (HCD).
7. In all places within the Agreement, any reference to the County's email address of RMA-Finance-AP-GP@co.monterey.ca.us for invoicing is hereby replaced with 194-HCD-Finance@co.monterey.ca.us.
8. All invoices shall reference the project name and an original hardcopy shall be sent to the following address or by email to 194-HCD-Finance@co.monterey.ca.us:

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

Any questions pertaining to invoices under this Agreement should be directed to the HCD Finance Division at (831) 755-4800 or via email to: 194-HCD-Finance@co.monterey.ca.us.

9. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
10. This Amendment No. 6 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 6 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: DocuSigned by:
Debra R. Wilson
7B74193FA0B41E...
Contracts/Purchasing Manager

Date: 2/14/2022

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

By: DocuSigned by:
Kristi Markey
C21D52A9D63041C...
Kristi A. Markey
Deputy County Counsel

Date: 1/25/2022

Approved as to Fiscal Provisions

By: DocuSigned by:
Gary Giboney
D3834BFEC1D8445...
Auditor/Controller

Date: 1/25/2022

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

By: DocuSigned by:
Denise Duffy
1A2402F4D355430...
(Signature of Chair, President or Vice President)

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

Date: 1/25/2022

By: DocuSigned by:
Denise Duffy
1A2402F4D355430...
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

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

Date: 1/25/2022

*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.

EXHIBIT A-5 - 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 4.1 Permitting

CONTRACTOR will provide additional permitting work in response to an unanticipated volume of comments and requests for information from State and Federal agencies. This will include expanded documentation and reporting requirements.

CONTRACTOR’S certified arborist will conduct a tree survey in the vicinity of the future causeway portion of the Project. This will include data transfer and review of the planting plan for replacement trees.

CONTRACTOR has not yet completed this task and requests an additional \$83,721.00 for completion of Task 4.1.

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 bi-weekly meetings.

CONTRACTOR has not yet completed this task and requests an additional \$30,000.00 for completion of Task 6.

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an amount not to exceed **\$113,721.00**, for a total amount not to exceed **\$676,448.25** 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, A-3, A-4, and A-5 Scope of Services/Payment Provisions. 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 to any other client for the same services performed by the same individuals.

EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS

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.

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
Housing and Community Development – Finance
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the HCD Finance Division at (831) 755-4800 or via email to: 194-HCD-Finance@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.

EXHIBIT A-5 - 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: Increased by \$65,000.00; Extended Term to July 29, 2017

Amendment No. 2: Increased by \$6,095.00 and Reallocated Funds

Amendment No. 3: Increased by \$47,375.00; Extended Term to June 30, 2018

Amendment No. 4: Increased by \$187,488.00; Extended Term to December 31, 2019

Amendment No. 5: Extended Term to December 31, 2022.

Amendment No. 6: Increases by \$113,721.00; Extends Term to December 31, 2023

<i>This Invoice:</i>	<i>Task 4</i>	<i>\$144,988</i>	<i>Task 4.1: Permitting</i>	_____
	<i>Task 5</i>		<i>Project Management</i>	_____
		<i>\$9,844.00</i>	<i>Additional Project Management</i>	_____
	<i>Task 6</i>		<i>Meetings</i>	_____
		<i>\$38,866.00</i>	<i>Task 6.2: County Staff/Consultants Permit Meetings</i>	_____
<i>Total Increase:</i>		<i>\$113,721.00</i>		

Remaining Balance \$ _____

Approved as to Work/Payment: _____
Shandy Carroll, Management Analyst III
Date

2. Invoice Detail

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