

# Attachment F

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**AMENDMENT NO. 3  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
WHITSON AND ASSOCIATES, INC. DBA WHITSON ENGINEERS**

**THIS AMENDMENT NO. 3** 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 associated dollar amount increase; 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**, the comprehensive evaluation of Project alternatives and potential impacts have been completed; and

**WHEREAS**, the environmental review process and technical analysis for the Project has been delayed due to on-going coordination with adjacent landowners and regulatory agencies; and

**WHEREAS**, the term of Exhibit B, SAP Contract No. 4600010665, of Agreement has been extended to December 31, 2022; and

**WHEREAS**, Exhibit C, Wildlife Conservation Board Grant Agreement WC-1059CF, and Exhibit E, State Coastal Conservancy Agreement No. 17-024, of Agreement are hereby removed from the Agreement in their entirety; and

**WHEREAS**, additional time is necessary to allow County to identify new funding and for the Parties to identify new tasks that have resulted from the comprehensive evaluation of the Project; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term for three (3) additional years to December 31, 2022 with no associated dollar amount increase to allow CONTRACTOR to continue with the Project 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 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 13, 2016 to December 31, 2022, unless sooner terminated pursuant to the terms of this Agreement.

2. Amend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit B-1 – Amendment No. 1 to SAP Contract No. 4600010665", effective June 18, 2018.
3. Amend Paragraph 4, "Additional Provisions/Exhibits", to delete "Exhibit C - Wildlife Conservation Board Grant Agreement WC-1059CF", effective January 1, 2019 and "Exhibit E - State Coastal Conservancy Agreement No. 17-024", effective January 1, 2020.
4. Amend Section 8.02, "Indemnification for Design Professional Services Claims", of Paragraph 8, "Indemnification", to read as follows:

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

5. 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 #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-GP@co.monterey.ca.us:

County of Monterey  
Resource Management Agency (RMA) – Finance Division  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

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

6. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
7. 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.
8. The recitals to this Amendment No. 3 are incorporated into the Agreement and this Amendment No. 3.



**STATE OF CALIFORNIA  
THE NATURAL RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES**

**Amendment No. 1**

**To**

**FUNDING AGREEMENT**

**BETWEEN**

**THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES**

**AND**

**MONTEREY COUNTY**

**FOR THE**

**CARMEL RIVER FLOODPLAIN RESTORATION AND ENVIRONMENTAL  
ENHANCEMENT PROJECT**

**FUNDED UNDER THE  
FLOOD CORRIDOR PROGRAM GRANT (CONTRACT NO. 4600010665)**

**EXHIBIT B-1 – AMENDMENT NO. 1 TO SAP CONTRACT NO. 4600010665**

SAP Contract No. 4600010665

THIS AMENDMENT NO. 1 to the AGREEMENT, entered into by and between the State of California, acting by and through the Department of Water Resources (hereinafter referred to as the "State) and Monterey County (hereinafter referred to as the "Grantee"), duly organized, existing and acting pursuant to the laws thereof, which parties do hereby agree as follows:

The original Agreement dated June 18, 2014, remains binding with the following modifications:

**1. SECTION 2 TERM OF AGREEMENT is amended as follows:**

Replace the first two sentences with "This Agreement shall remain in effect until December 31, 2022."

**2. SECTION 7 METHOD OF PAYMENT**

Replace "State of California, Department of Water Resources, 3463 El Camino Avenue, Room 200, Sacramento, CA 95821, to the attention of David Wright, Project Manager for the State." with "State of California, Department of Water Resources, 3310 El Camino Avenue, Suite 145, Sacramento, CA 95821, to the attention of Andrew Isner, c/o Cheryl Bates, Flood Corridor Program."

**3. SECTION 13 PROJECT OFFICIALS AND NOTICES is amended as follows:**

Replace "David Wright" as the State Project Manager with "Andrew Isner,"  
Replace "Benny Young" as the Grantee's Program Manager with "Carl Holm"  
Replace "John Ford" as the Grantee Project Manager with "Melanie Beretti."

The sixth paragraph providing the addresses for notice shall be amended as follows:

Notices required to be given to the State in writing by the Grantee under this Agreement shall be sent to:

Andrew Isner, c/o Cheryl Bates  
California Department of Water Resources  
3310 El Camino Avenue, Suite 145  
Sacramento, CA 95821

Notices required to be given to the Grantee in writing by the State under this Agreement shall be sent to:

Cari P. Holm, Director  
Monterey County Resource Management Agency  
1441 Schilling Place, South 2nd Floor  
Salinas, CA 93901-4527

**4. EXHIBIT C, III, Task 4, Subtask 4.1 is amended as follows:**

**Subtask 4.1 Preparation and Review of CEQA/NEPA Document**

An environmental review in accordance with CEQA and NEPA will be prepared. The County of Monterey will function as Lead agency for the CEQA document and the



**EXHIBIT B-1 – AMENDMENT NO. 1 TO SAP CONTRACT NO. 4600010665**

SAP Contract No. 4600010665

United State Fish and Wildlife Service, in cooperation with Caltrans will coordinate the NEPA document.

- Deliverable: Final EIR.

**5. EXHIBIT C, IV. SCHEDULE is amended as follows:**

Exhibit C, IV. Schedule is replaced in its entirety with the Exhibit C, IV. Schedule Attached. End date for the project has been changed to December 31, 2022.

**6. IN WITNESS HEREOF is amended as follows:**

Replace "Benny Young" with "Carl P. Holm"  
Replace "Cynthia L. Hasson" with "Wendy S. Strimling"  
Replace "Keith Swanson" with "Jon Ericson"

All other terms and conditions of the Agreement, as amended, remain unchanged.

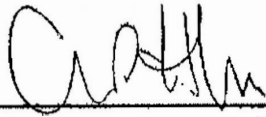
**EXHIBIT B-1 – AMENDMENT NO. 1 TO SAP CONTRACT NO. 4600010665**

SAP Contract No. 4600010665

**IN WITNESS HEREOF**, the following authorized representatives have executed this Amendment as of the date of the final signature below.

**GRANTEE  
MONTEREY COUNTY**

**STATE OF CALIFORNIA, DEPARTMENT  
OF WATER RESOURCES**

By: 

By:  for

Carl P. Holm, Director Resource Management Agency

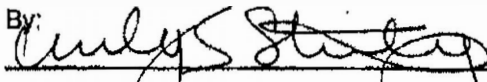
Jon Ericson, Chief, Division of Flood Management

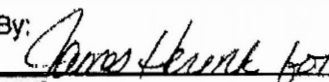
Date: 6/5/2018

Date: 06/18/2018

Approved as to Legal Form and Sufficiency

Approved as to Legal Form and Sufficiency

By: 

By:  for

Wendy S. Strimling, Senior Deputy County Counsel

Robin E. Brewer, Assistant Chief Counsel

Date: 6/5/18

Date: 6-14-18



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

**Names of Additional Insured Person(s) or Organization(s):**

Any person or organization that you agree in a written contract, on this Coverage Part, provided that such written contract was signed and executed by you before, and is in effect when the "bodily injury" or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed.

**Location of Covered Operations:**

Any project to which an applicable written contract with the described in the Name of Additional Insured Person(s) or Organization(s) section of this Schedule applies.

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

**A.** Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "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;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring, or "personal injury" or "advertising injury" arising out of an offense committed, after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:  
COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

**Name Of Additional Insured Person(s) Or Organization(s):**

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part for "bodily injury" or "property damage" included in the "products-completed operations hazard", provided that such contract was signed and executed by you before, and is in effect when, the bodily injury or property damage occurs.

### **Location And Description Of Completed Operations**

Any project to which an applicable contract described in the Name of Additional Insured Person(s) or Organization(s) section of this Schedule applies.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the

location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**OTHER INSURANCE – ADDITIONAL INSURED –  
PRIMARY AND NON-CONTRIBUTORY WITH RESPECT TO  
CERTAIN OTHER INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to Paragraph 4. a., **Primary Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

However, if you specifically agree in a written contract or agreement that the insurance afforded to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, **this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance**, provided that:

(1) The "bodily injury" or "property damage" for which coverage is sought is caused by an "occurrence" that takes place; and

(2) The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense that is committed;

subsequent to the signing and execution of that contract or agreement by you.

POLICY NUMBER: 6806H441757

COMMERCIAL GENERAL LIABILITY

ISSUED DATE: 11/14/2019

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

**Name of Person or Organization:**

Any person or organization that you agree in a written contract

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The **TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US** Condition (Section IV-COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We **waive** any right of recovery we may have against the person or organization shown in the Schedule above 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 hazards." This waiver applies only to the person or organization shown in the Schedule above.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
**BUSINESS AUTO COVERAGE FORM**  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

<p><b>Named Insured:</b> Whitson and Associates, Inc.</p> <p><b>Endorsement Effective Date:</b> 11/1/2019</p>
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### SCHEDULE

<p><b>Name Of Person(s) Or Organization(s):</b> County of Monterey, its agents, officers and employees</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE**

This endorsement modifies insurance provided under the following:  
BUSINESS AUTO COVERAGE FORM

### **SCHEDULE OF ADDITIONAL INSURED PERSONS OR ORGANIZATIONS**

**COUNTY OF MONTEREY, ITS AGENTS, OFFICERS  
AND EMPLOYEES**

COUNTY OF MONTEREY  
1441 SCHILLING PLACE, SOUTH 2ND FLOOR  
SALINAS CA 93901

### **PROVISIONS**

1. The following is added to Paragraph c. in A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

This includes any person or organization designated in the Schedule Of Additional Insured Persons Or Organizations who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that designated person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph 5., **Other Insurance**, in B., **General Conditions**, of SECTION IV – BUSINESS AUTO CONDITIONS:

Regardless of the provisions of paragraph a. and paragraph d. of this part 5. **Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which the person or organization designated in the Schedule Of Additional Insured Persons Or Organizations is the first named insured when the written contract or agreement between you and that designated person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.



**WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY**

**ENDORSEMENT WC 99 03 76(00) — 001**

**POLICY NUMBER: UB7J637993**

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS  
ENDORSEMENT CALIFORNIA  
(BLANKET WAIVER)**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 3.00 % of the California workers' compensation premium otherwise due on such remuneration.

**Schedule**

**Person or Organization**

County of Monterey  
1441 Schilling Place, South 2nd Floor  
Salinas CA 93901

**Job Description**

County of Monterey, its agents, officers and employees

**DATE OF ISSUE: 11/14/2019**

**ST ASSIGN: CA**