

Attachment B

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**AMENDMENT NO. 8
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC., DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 8 to the Professional Services Agreement No. A-13085 between the County of Monterey, a political subdivision of the State of California (“County”) and Whitson and Associates, Inc., dba Whitson Engineers (“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 the County on April 14, 2016 (“Agreement”) to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (“Project”) for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987;

WHEREAS, the Agreement was amended by the Parties on January 3, 2018 (“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;

WHEREAS, the Agreement was amended by the Parties on March 2, 2018 (“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;

WHEREAS, the Agreement was amended by the Parties on December 11, 2019 (“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;

WHEREAS, the Agreement was amended by the Parties on May 26, 2020 (“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 \$493,091 and to increase the amount by \$484,909 which resulted in a total not to exceed amount of \$1,654,896;

WHEREAS, the Agreement was amended by the Parties on December 1, 2020 (“Amendment No. 5,” including Exhibit A-3 – Scope of Services/Payment Provisions) to expand the original scope of the Agreement to include Task 7, Site-Specific ARS Curves and to increase the amount by \$29,000 which resulted in a total not to exceed amount of \$1,683,896;

WHEREAS, the Agreement was amended by the Parties January 25, 2022 (“Amendment No. 6,” including Exhibit A-4 – Scope of Services/Payment Provisions) to expand the original scope

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Not to Exceed: \$2,347,079

of the Agreement and to increase the amount by \$208,193 which resulted in a total not to exceed amount of \$1,892,089;

WHEREAS, the Agreement was amended by the Parties on October 11, 2022 (“Amendment No. 7,” including Exhibit A-5 – Scope of Services/Payment Provisions) to add Tasks 9, 10, and 11 and to increase the Agreement amount by \$310,193 for a new not to exceed amount of \$2,202,228;

WHEREAS, additional time and funding are necessary to allow CONTRACTOR to continue to provide services associated with final design construction of the CRFREE Project;

WHEREAS, the Parties wish to amend the Agreement by expanding the Scope of Services to include finish restoration, causeway, well design, and utility relocation coordination to prepare for construction commencement in 2024; and

WHEREAS, the Parties wish to further amend the Agreement to increase the budget amount by \$144,851 for a new not to exceed amount of \$2,347,079 and extend the term by one (1) year to December 31, 2024, to allow CONTRACTOR to continue to provide services.

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, A-3, A-4, A-5, and A-6** 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, A-5, and A-6** 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 \$2,347,079.
3. 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, 2024, unless sooner terminated pursuant to the terms of this Agreement.
4. Amend Paragraph 4, “Additional Provisions/Exhibits,” by adding “**Exhibit A-6, Scope of Services/Payment Provisions**” to the Agreement.
5. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.

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6. This Amendment No. 8 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

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IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 8 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

PROJECT APPLICANT*

By: _____
Contracts/Purchasing Manager

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

Date: _____

Richard Weber, President

(Print Name and Title)

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

Date: _____

By: _____
Mary Grace Perry
Deputy County Counsel

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

Date: _____

Kim Woltman, CFO

(Print Name and Title)

Approved as to Fiscal Provisions

Date: _____

By: _____
Auditor-Controller

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.

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Exhibit A-6 to Attachment B

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EXHIBIT A-6 - 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 (“Project”), as set forth below:

Task 4.1a and 4.1b. Final Restoration Design

1. CONTRACTOR shall provide additional coordination and management for the restoration portion of the Project.
2. CONTRACTOR shall participate in additional project management meetings and meetings with funders and regulators.
3. CONTRACTOR shall respond to extended comments from permitting agencies and associated changes to bid documents.

Due to unanticipated additional coordination and management needs, CONTRACTOR requests an additional \$50,000 for completion of Tasks 4.1a and 4.1b.

Tasks 4.2a and 4.2b. Final Causeway Design

1. CONTRACTOR shall provide additional coordination and management for the causeway portion of the Project.
2. CONTRACTOR shall participate in project management meetings and meetings with funders and regulators.
3. CONTRACTOR shall respond to extended comments from permitting agencies and associated changes to bid documents.

Due to unanticipated additional coordination and management needs, CONTRACTOR requests an additional \$50,000 for completion of Tasks 4.2a and 4.2b.

Task 4.3. Well Design

Amend Task 4.3 to include the following:

- CONTRACTOR shall perform a condition assessment of the existing State Park Well as outlined in the Bierman Hydro-Geo-Logic (Sub-Contractor) Proposal/Contract (Attachment 1).

CONTRACTOR shall utilize unused funds in the amount of \$10,000 from Task 4.3 budget.

Task 6.1. Utility Relocation Coordination

EXHIBIT A-6 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- CONTRACTOR shall provide additional coordination and task management with Pacific Gas & Electric regarding liability for relocation work.
- CONTRACTOR shall provide additional coordination and task management with AT&T and Comcast for Joint Trench relocation.

Due to unanticipated additional utility coordination and management, CONTRACTOR requests an additional \$10,000 for completion of this task.

Task 8.2. Phase I Re-Bid

- CONTRACTOR shall coordinate and update the Phase 1 bid package for re-bidding in the last quarter of 2023 to include update to the Plans and Special Provisions based upon:
 - Permits obtained subsequent to preparation of the 2022 bid package.
 - Incorporate changes made to the Plans and Special Provisions through the 2022 bid process.
 - Changes previously made as Clarifications and Amendments will be incorporated for re-bidding.

CONTRACTOR is requesting an additional \$34,851 be added to the project budget for this new task.

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
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 **\$144,851** for a total not to exceed amount of **\$2,347,133** for the performance of all things necessary for or incidental to the performance of work as set forth in this Exhibit A-6. CONTRACTOR's compensation for services rendered shall be based on time and materials in accordance with the Agreement's Fee Schedule and the Proposed Budget below. CONTRACTOR shall be responsible for payment to SUBCONTRACTORS based on a time and materials basis.

EXHIBIT A-6 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Whitson Engineers Fee Estimate Summary

WE 2172.07 Phase	WE 2172.08 Phase	County Task No. and Name	WE	Balance Hydrologics	HT Harvey	10% Admin. Fee	Expenses	Total
1	--	Task 1.1a & 1.1b. Draft Restoration Design				\$ -	\$ -	\$ -
2	--	Optional Task 1.1c. Additional Draft Restoration Work				\$ -	\$ -	\$ -
14	--	Optional Task 1.1d. Additional CEQA/NEPA Support				\$ -	\$ -	\$ -
3	--	Task 1.2a & 1.2b. Draft Causeway Design				\$ -	\$ -	\$ -
4	--	Optional Task 1.2c. Additional Draft Causeway Work				\$ -	\$ -	\$ -
5	1	Task 2. FEMA CLOMR				\$ -	\$ -	\$ -
--	14	Task 2.a. Additional FEMA CLOMR Coord. (Amend. #6)				\$ -	\$ -	\$ -
6	2	Task 3. Caltrans Project Report				\$ -	\$ -	\$ -
7	3	Task 4.1a & 4.1b. Final Restoration Design	\$ 50,000.00			\$ -	\$ -	\$ 50,000.00
8	4	Optional Task 4.1c. Additional Final Restoration Work				\$ -	\$ -	\$ -
--	15	Task 4.d. Hwy Planting and Irrig. Plans (Amend. #6)				\$ -	\$ -	\$ -
--	20	Task 4.1e. Tier 1 RMP for CDP (Amendment #7)				\$ -	\$ -	\$ -
9	5	Task 4.2a & 4.2b. Final Causeway Design	\$ 50,000.00			\$ -	\$ -	\$ 50,000.00
10	6	Optional Task 4.2c. Additional Final Causeway Work				\$ -	\$ -	\$ -
--	7	Task 4.3 Well Design (Amendment #4)				\$ -	\$ -	\$ -
11	8	Task 5. Right-of-Way				\$ -	\$ -	\$ -
--	9	Optional Task 5.2. Additional ROW Work (Amend. #4)				\$ -	\$ -	\$ -
--	16	Task 5.a TCE's for Phase 1 Constr. (Amend. #6)				\$ -	\$ -	\$ -
12	10	Task 6.1. Utility Relocation Coordination	\$ 10,000.00			\$ -	\$ -	\$ 10,000.00
13	11	Optional Task 6.2. Utility Potholing				\$ -	\$ -	\$ -
--	12	Task 7. Bridge Foundation ARS Curves (Amendment #5)				\$ -	\$ -	\$ -
--	13	Task 8. Phased Construction Documents (Amend. #6)				\$ -	\$ -	\$ -
--	17	Task 9. State Parks Berm Alternative (Amendment #7)				\$ -	\$ -	\$ -
--	18	Task 10. Phase 1 Bid Support (Amend #7)				\$ -	\$ -	\$ -
--	19	Task 11. Phase 1 Construction Support (Amend #7)				\$ -	\$ -	\$ -
--	22	Task 8.2 Phase 1 Re-Bid (Amend #6)				\$ -	\$ -	\$ -
			\$ 15,000.00	\$ 5,000.00	\$ 13,046.00	\$ 1,805.00	\$ -	\$ 34,851.00
			\$ 125,000	\$ 5,000	\$ 13,046	\$ 1,805	\$ -	\$ 144,851

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 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 3200*2218**, Project Name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to PWFP-Finance-AP@co.monterey.ca.us:

County of Monterey
Public Works, Facilities and Parks (PWFP) - Finance

EXHIBIT A-6 - SCOPE OF SERVICES/PAYMENT PROVISIONS

1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the Public Works, Facilities and Parks - Finance at (831) 755-4800 or via email to: PWFP-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.

The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

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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