

# Attachment D

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**REIMBURSEMENT AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
THE BIG SUR LAND TRUST  
FOR THE  
CARMEL RIVER FLOODPLAIN RESTORATION AND  
ENVIRONMENTAL ENHANCEMENT PROJECT**

**THIS REIMBURSEMENT AGREEMENT**, hereinafter, "AGREEMENT", is made and entered by and between the County of Monterey, a political subdivision of the State of California, hereinafter, "County", and The Big Sur Land Trust, a California nonprofit public benefit corporation, hereinafter, "BSLT", (collectively, the "Parties") with reference to the following facts and circumstances:

**RECITALS**

A. WHEREAS, the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, referred to herein as "PROJECT", is located at the downstream end of the Carmel River Watershed, approximately half a mile from the river's mouth.

B. WHEREAS, the goal of the PROJECT is to improve flood control and to restore native riparian and floodplain habitat and hydrologic function to a portion of the lower floodplain along the Carmel River.

C. WHEREAS, BSLT is an implementing partner and co-sponsor with County on the PROJECT.

D. WHEREAS, the Parties have agreed that it is necessary and desirable for County to coordinate all planning, development, permitting, and construction activities associated with the PROJECT.

E. WHEREAS, the Parties intend that PROJECT shall be funded by grants to the greatest extent feasible and, except as otherwise specifically provided herein, the Parties shall not be obligated to fund any portion of the costs associated with the Project.

F. WHEREAS, BSLT currently holds a grant from the California State Coastal Conservancy, referred to herein as "Conservancy" to pay for a portion of the environmental review services of the PROJECT by Denise Duffy and Associates, Inc., referred to herein as "DDA".

G. WHEREAS, the Conservancy grant cannot be transferred to County.

H. WHEREAS, concurrently with the execution of this AGREEMENT, County intends to enter into Amendment No. 4 to Professional Services Agreement (PSA) Number A-12775 with DDA, hereinafter "Amendment No. 4", in the amount of \$187,488 for a total PSA amount not to exceed \$562,727.25.

I. WHEREAS, DDA's PSA and Amendments No. 1 to 3 of the PSA are attached hereto and incorporated by this reference as "EXHIBIT 2".

J. WHEREAS, BSLT has agreed to reimburse County for a portion of PROJECT environmental review service activities to be carried out under the PSA as previously amended and as amended by Amendment No. 4, from said Conservancy grant held by BSLT.

K. WHEREAS, the Parties make this AGREEMENT with full knowledge of the requirements of state and local law relevant to the PROJECT, including, but not limited to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereafter "CEQA") and State CEQA Guidelines (California Code of Regulations, title 14, Section 15000 et seq., hereafter "Guidelines") and the Monterey County Code.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, BSLT AND COUNTY AGREE AS FOLLOWS:**

1. Engagement of DDA. The BSLT reimbursement obligation under this agreement is contingent upon the County and DDA entering into Amendment No. 4, attached hereto and incorporated by this reference as "EXHIBIT 1", for environmental review services. DDA shall be responsible only to County under said PSA and its amendments. Nothing in this AGREEMENT or the PSA as previously amended or amended by Amendment No. 4 shall impose upon DDA any obligation to BSLT nor shall it impose upon BSLT any obligation to DDA. The Parties acknowledge that County shall provide all needed direction and guidance to DDA in respect to DDA's services on the PROJECT. BSLT shall not provide direction and/or guidance to DDA in respect to DDA's services on the PROJECT except as requested by County.

2. BSLT Approvals. County agrees that BSLT shall be consulted for its approval on the design of the restoration components of the PROJECT to occur on land to be held by BSLT, commonly known as Odello East, where BSLT will have long term management responsibilities pursuant to the Conservancy grant as well as other grant agreements in connection with the PROJECT. BSLT approval shall not be unreasonably withheld, nor cause delay in PROJECT, nor increase cost of PROJECT.

3. Reimbursement

a. DDA'S Invoices

BSLT shall reimburse County for PROJECT environmental review fees invoiced to County by DDA in accordance with the terms of the PSA as previously amended and amended by Amendment No. 4 up to the Maximum Reimbursement amount allowed in this AGREEMENT. This AGREEMENT is not subject to the 5% retention included in the Conservancy grant.

b. Maximum Reimbursement Under AGREEMENT

The maximum which BSLT will reimburse to County under this AGREEMENT is \$187,488. If DDA's costs to provide the tasks under Amendment No. 4 are less than \$187,488, BSLT will reimburse to County DDA's costs to provide services under the PSA as amended by Amendments No. 1, 2, and 3, so long as the maximum reimbursement by BSLT to the County does not exceed a total of \$187,488.

c. Reimbursement Procedures

(1) County may submit an invoice to BSLT on a monthly basis, beginning upon execution of Amendment No. 4, and thereafter, not later than the last day of each following month. County invoices shall set forth the amount of compensation paid to DDA, along with all other information and supporting or back-up documentation required by the terms of the Conservancy grant.

(2) In its monthly invoices, County shall include a progress report detailing the activities accomplished by DDA in that billing period.

(3) In its monthly invoices, County shall include a copy of the DDA invoice to be reimbursed, a detailed breakdown of the time worked on each task, the person completing the work, the hourly rates, and expenses, receipts for all materials and supplies, and any other further information required by the terms of the Conservancy grant. Upon request by BSLT, Proof of Payment shall be provided by County to BSLT once DDA invoices have been processed.

(4) BSLT shall honor all invoices properly submitted by County as described above for services of DDA performed before the date of termination of AGREEMENT.

(5) BSLT shall process invoices and mail payment to County within ten (10) business days of receipt of an invoice.

d. Grant Compliance

(1) BSLT's obligation to pay/reimburse County under this AGREEMENT is conditioned upon County, and DDA's invoiced work, being in compliance with applicable terms of the Conservancy Grant Agreement attached hereto and incorporated by this reference as "EXHIBIT 3".

(2) The Parties will cooperate to ensure that County, BSLT and DDA's invoiced work are in compliance with all Conservancy grant terms.

e. Grant Repayment Obligation

(1) The Parties will cooperate to: (a) Work with Conservancy grant funder to resolve any delay in or failure of disbursement/reimbursement by grant funder due to noncompliance with grant terms; and (b) Work with the Conservancy grant funder to resolve any circumstances which have or may trigger grant reimbursement or repayment obligation, as described in the "EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM" section of the Conservancy grant.

(2) In the event that a repayment obligation is triggered due solely to County's noncompliance, then County shall reimburse BSLT for the amount BSLT is required to repay to grant funder.

(3) In the event that a repayment obligation is triggered due solely to BSLT's noncompliance, then BSLT shall solely pay the amount it is required to repay to grant funder.

(4) In the event that a repayment obligation is triggered due to BSLT and County joint noncompliance, then County and BSLT shall share the cost of the repayment obligation in proportion to their respective responsibility for noncompliance.

(5) In the event that a repayment obligation is triggered, but there is no clear fault by either party, BSLT shall be solely responsible for the repayment obligation.

(6) The Parties agree to meet and confer in good faith when there is a disagreement as to which party caused the repayment obligation.

4. Term. AGREEMENT shall become effective upon latest date of signature, and continue until fully reimbursed pursuant to the terms of the AGREEMENT, unless terminated pursuant to Paragraph 5 of AGREEMENT.

5. Termination. AGREEMENT shall terminate upon full reimbursement pursuant to the terms of the AGREEMENT but may be terminated earlier by BSLT or County, by giving thirty (30) days' written notice to the other. Upon such early termination, BSLT shall pay County invoices for work performed by DDA under the PSA as previously amended and amended by Amendment No. 4 through effective date of termination.

6. Entire Agreement. AGREEMENT and its attachments constitute the entire agreement between the Parties respecting the matters set forth herein. The Parties each represent that neither has relied on any promise, inducement, representation, or other statement made in connection with AGREEMENT that is not expressly contained herein.

7. Negotiated Agreement. It is agreed and understood by the Parties that AGREEMENT has been arrived at through negotiations and that neither is deemed the party which prepared AGREEMENT within the meaning of Civil Code Section 1654.

8. Assignment. Neither of the Parties shall have the right to assign its respective rights and obligations hereunder without the written consent of the other party. This AGREEMENT shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors and assigns.

9. Amendment. This AGREEMENT may be amended, modified or supplemented only in writing by both of the Parties.

10. Contracting Officer. The contracting officer of County, and the only entity authorized by law to make or amend AGREEMENT on behalf of County, is the Monterey County Board of Supervisors (BOS). The BOS may authorize the Director of the Resource Management Agency or other appropriate County officer or employee to execute this AGREEMENT.

11. Waiver. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this AGREEMENT shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in any other instance or a waiver of any other condition or breach of any other term.

12. Governing Law. AGREEMENT shall be governed by, construed, interpreted and applied in accordance with the laws of the State of California.

13. Construction. The language in all parts of AGREEMENT shall be construed, in all cases, according to its fair meaning. The Parties acknowledge that each party has reviewed and revised AGREEMENT and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of AGREEMENT.

14. Conflict with PSA between DDA and County. In the event of a conflict between the provisions of AGREEMENT and the PSA, including Amendment No. 4, between County and DDA, the provisions of AGREEMENT shall govern.

15. Relationship of Parties. The Parties agree that this AGREEMENT establishes only a reimbursement arrangement between the Parties, and that, notwithstanding any terms to the contrary, the Parties are not partners or joint venturers.

16. Indemnification. BSLT agrees to defend, indemnify and hold County harmless in any action brought by any third party in which the authority of the BSLT to enter into AGREEMENT or the validity of AGREEMENT is challenged

17. Notices. Notice to the Parties required under this AGREEMENT shall be delivered personally or by first class, postage pre-paid mail addressed as follows:

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Reimbursement Agreement  
The Big Sur Land Trust  
Carmel River Floodplain Restoration and Environmental Enhancement Project  
RMA - Planning  
Term: Effective Upon Latest Date of Signature - Fully Reimbursed  
Not to Exceed: \$187,488

To County: Carl P. Holm, AICP  
Resource Management Agency Director  
County of Monterey, Resource Management Agency  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

To BSLT: Rachel Saunders  
Director of Conservation  
The Big Sur Land Trust  
PO Box 4071  
Monterey, California 93942

18. Authority. Any individual executing this AGREEMENT on behalf of the Parties represents and warrants hereby that he or she has the requisite authority to enter this AGREEMENT on behalf of such party and bind the party to the terms and conditions of this AGREEMENT.

19. Counterparts. This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

20. Severability. If any provision of this AGREEMENT is deemed by a court of competent jurisdiction to be unenforceable under applicable law, the remaining provisions shall in no way be affected and shall remain in full force.



IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT which shall be effective as of the last date opposite the respective signatures below.

**COUNTY OF MONTEREY**

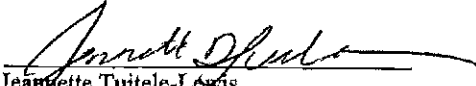
By: \_\_\_\_\_

Carl P. Holm, AICP  
RMA Director

Date: \_\_\_\_\_

**THE BIG SUR LAND TRUST\***

By: \_\_\_\_\_

  
Jeanette Tuitele-Lewis  
President/CEO

Date: 02/16/2018

**Approved as to Form and Legality  
Office of the County Counsel**

By: \_\_\_\_\_

  
Wendy S. Strimling  
Senior Deputy County Counsel

Date: 2/22/18

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_

  
Auditor/Controller

Date: 2-22-18

\*INSTRUCTIONS: IF PROJECT APPLICANT 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 PROJECT APPLICANT 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) managing members. IF PROJECT APPLICANT 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 PROJECT APPLICANT 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 1**  
**AMENDMENT NO. 4**  
**TO THE PROFESSIONAL SERVICES AGREEMENT**  
**BETWEEN**  
**DENISE DUFFY & ASSOCIATES, INC.**  
**AND THE**  
**COUNTY OF MONTEREY**  
**FOR THE**  
**CARMEL RIVER FLOODPLAIN RESTORATION AND**  
**ENVIRONMENTAL ENHANCEMENT PROJECT**

Reimbursement Agreement  
The Big Sur Land Trust  
Carmel River Floodplain Restoration and Environmental Enhancement Project  
RMA – Planning  
Term: Effective Upon Latest Date of Signature – Fully Reimbursed  
Not to Exceed: \$187,488

**AMENDMENT NO. 4  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
DENISE DUFFY & ASSOCIATES, INC.**

**THIS AMENDMENT NO. 4** 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") 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 (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 term; and

**WHEREAS**, Agreement was amended by the Parties on February 9, 2017 (hereinafter, "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; 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 2.1, Task 3.1, Task 3.2, Task 3.3, Task 3.4, Task 3.7, Task 3.8, Task 3.9, Task 5 and Task 6 of the original scope of services for completion of the Project, as further set out in Exhibit A-4, attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term for approximately eighteen (18) additional months to December 31, 2019 and to increase the amount by \$187,488 for a total amount not to exceed \$562,727.25 to allow CONTRACTOR to continue to provide tasks identified in the Agreement as previously amended and as amended by this Amendment No.4.

**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 and A-4 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 and A-4, 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 \$562,727.25.
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, 2019, unless sooner terminated pursuant to the terms of this Agreement.
4. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-4, Scope of Services/Payment Provisions" and "Exhibit D, State Coastal Conservancy Agreement No. 17-024".
5. In all places within the Agreement as previously amended, any reference to "Task 2, Prepare National Environmental Protection Act (NEPA) Required Technical Studies", is hereby replaced with "Task 2, Prepare California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) Required Technical Studies".
6. All other terms and conditions of the Agreement as previously amended remain unchanged and in full force.
7. This Amendment No. 4 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. 4 are incorporated into the Agreement and this Amendment No.4.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 4 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: \_\_\_\_\_  
Carl P. Holm, AICP  
RMA Director

Date: \_\_\_\_\_

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

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

Its: \_\_\_\_\_  
(Printed Name and Title)

Date: \_\_\_\_\_

**Approved as to Form and Legality  
Office of the County Counsel**

By: \_\_\_\_\_  
Wendy S. Strimling  
Senior Deputy County Counsel

Date: \_\_\_\_\_

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

Its: \_\_\_\_\_  
(Printed Name and Title)

Date: \_\_\_\_\_

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

**Approved as to Indemnity, Insurance Provisions**

By: \_\_\_\_\_  
Risk Management

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) managing members. 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-4 - 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 2. Prepare California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) Required Technical and Biological 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 2.1 Natural Environment Study**

Review and revise the 2015 botanical surveys as necessary to ensure compliance with regulatory guidance; specifically, that surveys are not conducted during severe drought.

*Total estimated cost for completion of Task 2.1 is an additional \$9,604.*

**Task 3. Preparation of the Combined CEQA/NEPA Document**

CONTRACTOR, based on the new information available and outcomes of the on-going coordination with County, DPR, CAWD and regulatory agencies, will provide the expanded services of the tasks below for the Project.

**Task 3.1.1 Project Alternatives Analysis**

CONTRACTOR will provide additional alternatives analysis services for the environmental review process, as requested by County. Services may include but are not limited to review of technical analysis and response to agency or stakeholder comments, developing and evaluating Project alternatives.

Should a formal alternatives analysis be requested, CONTRACTOR will develop a reasonable range of Project alternatives to be analyzed at the same technical level as the preferred alternative. Work with the Project hydrologic and civil engineering team members to determine the most appropriate and efficient approach to developing alternatives, including reexamining alternatives previously considered and focusing on potential alternatives to reduce or avoid

## **EXHIBIT A-4 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

one (1) or more environmental impacts. For budget purposes, this assumes no new technical studies will be required.

*Total estimated cost for completion of Task 3.1.1 is \$20,572.*

**Task 3.2.1 Prepare Revised 1<sup>st</sup> Administrative Draft CEQA/NEPA Document**  
CONTRACTOR will identify a CEQA/NEPA document format that County, the United States Fish and Wildlife Service (USFWS), and Caltrans can agree upon. All sections of the document will be inserted into the new template, the document reformatted, and additional alternatives analyses information incorporated. A significant portion of this work includes adding new alternatives analysis, inserting new information and analysis into the hydrology and biology section, and updating the executive summary.

*Total estimated cost for completion of Task 3.2.1 is \$28,078.*

**Task 3.3.1 Prepare Revised 2nd Administrative Draft CEQA/NEPA Document**  
CONTRACTOR will revise the CEQA/NEPA document in response to comments.

*Total estimated cost for completion of Task 3.3.1 is \$15,692.*

**Task 3.4. Prepare Screencheck and Public Review Draft CEQA/NEPA Document and Noticing**

CONTRACTOR will revise the document in response to comments. This scope of services assumes that the USFWS will be responsible for the Federal noticing requirements associated with an Environmental Impact Statement (EIS) if that is the document chosen.

*CONTRACTOR has not yet completed this task and requests an additional \$5,436 for completion of Task 3.4.*

**Task 3.7 Prepare Screencheck Draft Final CEQA/NEPA Document, Mitigation Monitoring and Reporting Program (MMRP) and CEQA Findings**

CONTRACTOR will revise the document in response to comments. This scope of services assumes the USFWS will be responsible for the Federal noticing and Record of Decision documents.

*CONTRACTOR has not yet completed this task and requests an additional \$3,902 for completion of Task 3.7.*

**3.8 Prepare Final Environmental Document, MMRP and CEQA Findings**  
CONTRACTOR will revise the materials in responses to comments.

## EXHIBIT A-4 - SCOPE OF SERVICES/PAYMENT PROVISIONS

*CONTRACTOR has not yet completed this task and requests an additional \$7,948 for completion of Task 3.8.*

### **3.9 Optional Tasks**

CONTRACTOR will provide optional tasks as a result of on-going coordination and communication through the environmental review process with stakeholders and regulatory agencies. Optional activities may include unanticipated additional work related to Task 3 above, including, but not limited to, converting the Environmental Impact Report (EIR) to an EIS document to meet NEPA requirements if it becomes necessary.

*Total estimated cost for completion of Task 3.9 is \$70,000.*

CONTRACTOR will not access the funds for these optional tasks without prior express written consent from County.

### **Task 5. Project Management**

The additional work identified in this amended scope of services will necessitate additional costs in project management by CONTRACTOR.

*CONTRACTOR has not yet completed this task and requests an additional \$9,844 for completion of Task 5.*

### **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 \$16,412 for completion of Task 6.*

## **B. PAYMENT PROVISIONS**

### **B.1 COMPENSATION/ PAYMENT**

County shall pay an amount not to exceed \$187,488.00, for a total amount not to exceed \$562,727.25 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, and A-4, 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-4 - 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 of 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  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

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-4 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Denise Duffy & Associates, Inc.

Cost Estimate for

Amendment No. 4 to the Professional Services Agreement (PSA) for the  
Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project

Item	Description	Unit	Quantity	Unit Price	Total Price
2.1	Natural Environment Study		1	\$ 18,792.50	\$ 18,792.50
2.2 - 2.10	All other CEQA/NEPA Studies		1	\$ 98,042.00	\$ 98,042.00
3.1	CEQA/NEPA Project and Alternative Descriptions		1	\$ 12,962.75	\$ 12,962.75
3.1.1	Project Alternatives Analysis		1	\$ 20,572.00	\$ 20,572.00
3.2	Prepare 1st Administrative Draft CEQA/NEPA Document		1	\$ 52,920.00	\$ 52,920.00
3.2.1	Revised 1st Administrative Draft CEQA/NEPA Document		1	\$ 28,078.00	\$ 28,078.00
3.3	Prepare 2nd Administrative Draft CEQA/NEPA Document		1	\$ 13,062.75	\$ 13,062.75
3.3.1	Revised 2nd Administrative Draft CEQA/NEPA Document		1	\$ 15,692.00	\$ 15,692.00
3.4	Prepare Screencheck and Public Review Draft CEQA/NEPA Document and Noticing		1	\$ 14,752.75	\$ 14,752.75
3.5	Respond to Public Comments and Prepare 1st Administrative Draft Final Document		1	\$ 10,596.75	\$ 10,596.75
3.6	Prepare 2nd Administrative Draft Final Document and Draft MMRP		1	\$ 6,392.75	\$ 6,392.75
3.7	Prepare Screencheck Draft Final CEQA/NEPA Document, MMRP and CEQA Findings		1	\$ 3,076.75	\$ 3,076.75
3.8	Prepare Final Environmental Document, MMRP and CEQA Findings		1	\$ 9,714.75	\$ 9,714.75
3.9	Optional Tasks		1	\$ 70,000.00	\$ 70,000.00

## EXHIBIT A-4 - 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: Increases by \$187,488.00; Extends Term to December 31, 2019

#### **This Invoice: Task 2.**

**Prepare CEQA and NEPA Required Technical Studies**

\$9,604.00 Task 2.1, Natural Environment Study

#### **Task 3.**

**Preparation of the Combined CEQA/NEPA Document**

\$20,572.00 Task 3.1.1, Project and Alternative Analysis

\$28,078.00 Task 3.2.1, Revised 1<sup>st</sup> Administrative Draft CEQA/NEPA Document

\$15,692.00 Task 3.3.1, Revised 2<sup>nd</sup> Administrative Draft CEQA/NEPA Document

\$5,436.00 Task 3.4, Prepare Screencheck and Public Review Draft CEQA/NEPA Document and Noticing

\$3,902.00 Task 3.7, Prepare Screencheck Draft Final CEQA/NEPA Document, MMRP and CEQA Findings

\$7,948.00 Task 3.8, Prepare Final Environmental Document, MMRP and CEQA Findings

\$70,000.00 Task 3.9, Optional Tasks

#### **Task 5**

**Project Management**

\$9,844.00 Additional Project Management

#### **Task 6.**

**Meetings**

\$16,412.00 Additional Meetings

**Total Increase: \$187,488.00**

Remaining Balance \$ \_\_\_\_\_

Approved as to Work/Payment: \_\_\_\_\_

Melanie Beretti, Special Programs Manager

\_\_\_\_\_ Date

#### 2. Invoice Detail

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

# EXHIBIT D - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 Std. 2 (Grant - Rev 08/08)

AGREEMENT NUMBER <b>17-024</b>	AM. NO.
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NO. <b>94-2473415</b>	

THIS AGREEMENT, made and entered into this 15<sup>th</sup> day of November, 2017,  
 in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE <b>Executive Officer</b>	AGENCY <b>State Coastal Conservancy</b>	, hereafter called the Conservancy, an
GRANTEE'S NAME <b>Big Sur Land Trust</b>		, hereafter called the Grantee.

The Grantee, for and in consideration of the covenants, conditions, agreements, and stipulations of the Conservancy hereinafter expressed does hereby agree as follows:

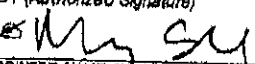
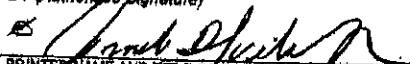
## SCOPE OF AGREEMENT

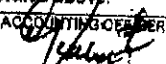
Pursuant to Chapter 3 and 5.5 of Division 21 of the California Public Resources Code, the State Coastal Conservancy ("the Conservancy") hereby grants to the Big Sur Land Trust ("the grantee") a sum not to exceed \$245,000 (two hundred forty-five thousand dollars), subject to this agreement. The grantee shall use these funds to prepare an environmental review document and related studies for permitting of the Carmel River Floodplain Restoration and Environmental Enhancement Project ("the project") for the Lower Carmel River Floodplain area of Carmel-By-The-Sea, Monterey County as shown on Exhibit A, which is incorporated by reference and attached.

(Continued on following pages)


The provisions on the following pages constitute a part of this agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		GRANTEE	
AGENCY <b>State Coastal Conservancy</b>	GRANTEE (If other than an individual, state whether a corporation, partnership, etc.) <b>Big Sur Land Trust</b>		
BY (Authorized Signature) 	BY (Authorized Signature) 		
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Samuel Schuchat, Executive Officer</b>	PRINTED NAME AND TITLE OF PERSON SIGNING <b>Jeannette Tuitele-Lewis, President/CEO</b>		
ADDRESS & PHONE NUMBER <b>1515 Clay Street, 10<sup>th</sup> Floor Oakland, CA 94612</b>	ADDRESS <b>509 Hartnell Street Monterey, CA 93940</b>		
Phone: (510) 286-1015		Phone: (831) 625-5523	

AMOUNT ENCUMBERED BY THIS DOCUMENT  <b>\$245,000.00</b>  PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT  <b>\$-0-</b>  TOTAL AMOUNT ENCUMBERED TO DATE  <b>\$245,000.00</b>	PROGRAM/CATEGORY (CODE AND TITLE) <b>Local Assistance</b> (OPTIONAL USE)	FUND TITLE <b>Federal Trust Fund</b>		
	<b>Carmel River Floodplain Restoration</b>			
	ITEM <b>3760-101-0890000000 (F10AP00825/15.614)(USFWS)</b>	CHAPTER <b>10</b>	STATUTE <b>2015</b>	FISCAL YEAR <b>15/16</b>
	OBJECT OF EXPENDITURE (CODE AND TITLE) <b>Enhancement</b>			
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.				
SIGNATURE OF ACCOUNTING OFFICER 		DATE <b>11/01/2017</b>		
<input checked="" type="checkbox"/> GRANTEE <input checked="" type="checkbox"/> ACCOUNTING <input type="checkbox"/> PROJECT MANAGER <input type="checkbox"/> CONTROLLER <input type="checkbox"/> STATE AGENCY				

I certify that this agreement is exempt from Department of General Services' approval.

  
 Erlinda Cortez  
 Procurement and Contracts Manager

## **EXHIBIT D - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Big Sur Land Trust  
Grant Agreement No. 17-024  
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### **SCOPE OF AGREEMENT (Continued)**

Grantee, in collaboration with the County of Monterey, shall prepare final joint environmental documentation, including all required assessments and studies, for the Carmel River Floodplain Restoration and Environmental Enhancement Project (CRFREE), pursuant to the California Environmental Quality Act (CEQA) and pursuant to the National Environmental Policy Act (NEPA). It is contemplated that the environmental documentation required under CEQA and NEPA may consist of a joint environmental impact report/environmental impact statement (EIR/EIS) or an EIR/Environmental Assessment. In preparing the environmental documentation, grantee shall solicit comments and input from grant funding agencies and other responsible agencies by issuance of an administrative draft prior to publishing a draft for public review. The County of Monterey will be the lead agency for CEQA and the United States Fish and Wildlife Service, with Caltrans, will be the lead agency under NEPA. Grantee shall also provide project management, including agency coordination, fund raising and public engagement.

The grantee shall carry out the project in accordance with this agreement and a work program as provided in the "WORK PROGRAM" section, below. The grantee shall provide any funds beyond those granted under this agreement which are needed to complete the project.

### **CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT**

The grantee shall not commence the project and the Conservancy shall not be obligated to disburse any funds under this agreement until the following conditions precedent have been met:

1. The board of trustees of the grantee has adopted a resolution designating positions whose incumbents are authorized to negotiate and execute this agreement and amendments to it on behalf of the grantee.
2. The Executive Officer of the Conservancy ("Executive Officer") has approved in writing:
  - a. The work program for the project as provided in the "WORK PROGRAM" section, below.
  - b. All contractors that the grantee intends to retain in connection with the project.
3. The grantee has provided written evidence to the Conservancy that the grantee has provided for required insurance coverage, including additional insured endorsement, as described in the "INSURANCE" section, below.
4. The grantee has completed and returned to the Conservancy the Federal Sub-Awardee Questionnaire.

## **EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Big Sur Land Trust  
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### **CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT** (Continued)

In carrying out the project, the grantee shall:

1. Complete final environmental documentation under CEQA and NEPA for the CRFREE, as that project is described in the Conservancy's 2017 application for Federal financial assistance, amendment, entitled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project", which included an updated narrative description of the CRFREE. A copy of the application with included narrative project description has been provided to the grantee
2. Comply with all applicable terms and conditions that may be required by the FWS NCWC Grant to the Conservancy or that may be necessary to enable the Conservancy to comply with terms and conditions of the grant (see "NCWC GRANT REQUIREMENTS" section, below).

### **TERM OF AGREEMENT**

This agreement shall take effect when signed by both parties and received in the office of the Conservancy together with the resolution described in the "CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT" section of this agreement. An authorized representative of the grantee shall sign the first page of the originals of this agreement in ink.

This agreement shall run from its effective date through December 31, 2019 ("the termination date") unless otherwise terminated or amended as provided in this agreement. However, all work shall be completed by June 1, 2019 ("the completion date").

### **AUTHORIZATION**

The signature of the Executive Officer of the Conservancy on this agreement certifies that at its June 15, 2017 meeting, the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit B. This agreement is executed under that authorization.

Funding for the project under this agreement is being provided by a grant (the "NCWC Grant") to the Conservancy by the U. S. Fish and Wildlife Service under its National Coastal Wetlands Conservation Grant Program. The Executive Officer's signature on this agreement acknowledges that the NCWC Grant has been awarded specifically for the work under this agreement. In carrying out the project work under this agreement the grantee shall comply with

## EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust  
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### AUTHORIZATION (Continued)

all applicable requirements imposed by the NCWC Grant, as detailed in "NCWC Grant Requirements" section, below.

### NCWC GRANT REQUIREMENTS

In accordance with the requirements of the NCWC Grant, any work under this agreement is subject to additional provisions under that grant. With respect to such work, the grantee shall comply with all award requirements under the NCWC Grant, including all of those requirements (collectively "Award Requirements") found in the following NCWC Grant documents:

- A. United States Fish and Wildlife Service ("USFWS") Notice of Notice of Federal Assistance Award for C-31-L-1, "Odeño East Floodplain Restoration Project, Monterey County, CA" dated August 27, 2010 (the "Award Notice"), as amended by USFWS Notice of Federal Assistance Award for F10AP00825 (C-31-L-1) Amendment 1, dated January 16, 2014 ("Award Notice, Am. 1"), and as further amended by USFWS "Notice of Amendment to Grant Award for FBMS# F10AP00825 (C-31-L-1) Amendment 2 ("Award Notice, Am. 2"). These NCWC Grant award notices are collectively attached to this agreement as Exhibit C and incorporated by this reference. USFWS issued the Award Notice, Am. 2 based on the Conservancy's 2017 application for Federal financial assistance amendment entitled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project", which included an updated narrative description of the CRFREE (the "Grant Proposal"), to which the NCWC Grant is to be applied. Although an important element of the Notice of Award, Am. 2, the Grant Proposal is not attached to this agreement because of the substantial size of the document. Instead, an electronic copy of the Grant Proposal has been separately provided to the grantee and the Grant Proposal is incorporated into this agreement by this reference.
- B. USFWS, Financial Assistance Award Terms and Conditions, Effective Date January 6, 2017, found on the internet at this address:  
<https://www.fws.gov/grants/pdfs/USFWSFAAwardTermsandConditions01-06-17B.pdf>

The grantee shall carefully review all of the Award Requirements and, as applicable, comply with those requirements. The Award Requirements include, *but are not limited to*, the following:

1. The "Special Conditions and Provisions" of the Award Notice, Award Notice, Am. 1, and Award Notice Am. 2.

## EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

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### NCWC GRANT REQUIREMENTS (Continued)

The grantee shall provide to the Conservancy the information necessary for the Conservancy to comply with the following or any other applicable requirements. The information may be combined with information otherwise required under this agreement.

- a. Interim and final performance and financial reports. (See Award Notice, Am. 2, page 3, "Reporting Requirements").
2. Grantee shall carry out the project consistent with the description set forth in the Grant Proposal, which is included in Exhibit C.
3. USFWS, Financial Assistance Award Terms and Conditions, Effective Date January 6, 2017, found on the internet at this address: <https://www.fws.gov/grants/pdfs/USFWSFAAawardTermsandConditions01-06-17B.pdf> including, *but not limited to*:
  - a. Requirements of subgrantees under 2 CFR §1400 – Government wide Debarment and Suspension (Non-procurement).
  - b. Requirements of 2 CFR §1401, Drug-Free Workplace.
  - c. Requirements under 43 CFR Part 18, New Restrictions on Lobbying, including executing and returning to the State the Certification Regarding Lobbying:  
[http://apply07.grants.gov/apply/forms/sample/GG\\_LobbyingForm-V1.1.pdf](http://apply07.grants.gov/apply/forms/sample/GG_LobbyingForm-V1.1.pdf)
  - d. Compliance with the requirements of the federal Administrative Requirements and Audit Requirements found at 2 C.F.R. Part 200, Subparts A through E. These requirements include, *but are not limited to*, the following:
    - i. Record retention and access requirements under 2 CFR §200.333 et seq.
    - ii. Procurement Standards, found at 2 CFR §§200.317– 200, which require grantee to: use specified methods of procurement (§200.320); take all specified affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible (§200.321); perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, currently \$150,000, but periodically adjusted for inflation (§200.323); and to incorporate into any procurement contract the applicable provisions described in Appendix II to Part 200— Contract Provisions for non-Federal Entity Contracts Under Federal Awards (§200.326).



**EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Big Sur Land Trust  
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Page 6

**NCWC GRANT REQUIREMENTS** (Continued)

- iii. Grantee shall undertake an annual federal single audit (or alternative) as and when required by 2 CFR, Part 200, Subpart F (2 CFR §§ 200.500 et seq.) and provide a copy to the Conservancy on completion of each such audit throughout the term of this agreement. Further, on execution of this agreement, the grantee shall provide the Conservancy with a copy of its most recently completed annual federal single audit (or alternative) and shall complete and return to the Conservancy the questionnaire concerning internal audit controls (the "Federal Sub-Awardee Questionnaire"), which has been provided by the Conservancy to the grantee.
- e. Grantee shall comply with federal Davis Bacon Act and the Department of Labor regulations concerning the Davis-Bacon Act and other federal wage laws. When required by the Davis-Bacon Act, the Department of Labor's (DOL) government-wide implementation of the Davis-Bacon Act, or by Federal program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2,000 financed by Federal assistance funds must be paid wages not less than those established for the locality of the Project (prevailing wage rates) by the DOL. Non-federal entities must include in their construction contracts a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and the DOL regulations. In addition, grantee must comply with Pres. Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60) (all construction contracts awarded in excess of \$10,000); the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3) (for contracts for construction or repair); and Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5) (construction contracts awarded in excess of \$2,000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers).
- f. Grantee shall comply with the requirements specified in 2 CFR Part 175, prohibiting specified acts involving "trafficking in persons" by grantee or its employees during the term of the federal grant. Grantee, its employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.
- g. Requirements under 41 USC §4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection, which requires compliance with the following:

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**NCWC GRANT REQUIREMENTS** (Continued)

- (i) This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712.
- (ii) Grantee and its contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.
- (iii) The grantee shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award.

## EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust  
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### Standard Provisions

#### WORK PROGRAM

Before beginning the project, the grantee shall submit a detailed work program to the Executive Officer for review and written approval of its consistency with this grant agreement. The work program shall include:

1. The specific tasks to be performed.
2. A schedule of completion for the project, specifically listing the completion date for each project component and a final project completion date.
3. A detailed project budget. The project budget shall describe all labor and materials costs of completing each component of the project. For each project component, the project budget shall list all intended funding sources including the Conservancy's grant, and all other sources of monies, materials, or labor.

If all or any part of the project to be funded under this agreement will be performed by third parties ("contractors") under contract with the grantee, then the grantee shall, prior to initiating any contractor selection process, submit the selection package to the Executive Officer for review and written approval as to consistency with the purposes of this grant agreement. Upon approval by the Executive Officer, the grantee shall proceed with the contractor selection process. Prior to final selection of a contractor, the grantee shall submit to the Executive Officer for written approval the names of all contractors that the grantee intends to hire. The grantee shall then comply with the above paragraph regarding submission and approval of a work program prior to project commencement.

The work program shall have the same effect as if included in the text of this agreement. However, the work program may be modified without amendment of this agreement upon the grantee's submission of a modified work program and the Executive Officer's written approval of it. If this agreement and the work program are inconsistent, the agreement shall control.

The grantee shall carry out the project in accordance with the approved work program.

#### COORDINATION AND MEETINGS

The grantee shall coordinate closely with Conservancy staff and other involved entities, including local, state and federal agencies, and shall participate in meetings and other communications as necessary to ensure coordination.

## **EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

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### **WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT**

All material, data, information, and written, graphic or other work produced, developed or acquired under this agreement is subject to the unqualified and unconditional right of the Conservancy to use, reproduce, publish, display, and make derivative use of all such work, or any part of it, free of charge and in any manner and for any purpose; and to authorize others to do so. If any of the work is subject to copyright, trademark, service mark, or patent, the Conservancy is granted and shall have a perpetual, royalty-free, nonexclusive and irrevocable license to use, reproduce, publish, use in the creation of derivative works, and display and perform the work, or any part of it, and to grant to any third party a comparable and coextensive sublicense.

The grantee shall include in any contract with a third party for work under this agreement terms that preserve the rights, interests, and obligations created by this section, and that identify the Conservancy as a third-party beneficiary of those provisions.

The grantee shall not utilize the work produced under this agreement for any profit-making venture, or sell or grant rights to a third party for that purpose.

In order to acknowledge the Conservancy's support of the project, the Conservancy's name and logo shall be included in the final report in a prominent location

### **COSTS AND DISBURSEMENTS**

When the Conservancy determines that all "CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT" have been fully met, the Conservancy shall disburse to the grantee, in accordance with the approved project budget, a total amount not to exceed the amount of this grant, as follows:

The Conservancy shall disburse funds for costs incurred to date, less five percent, upon the grantee's satisfactory progress under the approved work program and upon submission of a "Request for Disbursement" form, which shall be submitted no more frequently than monthly but no less frequently than quarterly. The Conservancy shall disburse the five percent withheld upon the grantee's satisfactory completion of the project and compliance with the "PROJECT COMPLETION" section, below, and upon the Conservancy's acceptance of the project.

The Conservancy will reimburse the grantee for expenses necessary to the project when documented by appropriate receipts. The Conservancy will reimburse travel and related expenses at actual costs not to exceed the rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations ("CCR"), except that reimbursement may be in excess of these rates upon documentation that these rates are not reasonably available to the grantee. Reimbursement for the cost of operating a private vehicle

## EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

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### COSTS AND DISBURSEMENTS (Continued)

shall not, under any circumstance, exceed the current rate specified by the State of California for unrepresented state employees as of the date the cost is incurred. The Conservancy will reimburse the grantee for other necessary expenses if those expenses are reasonable in nature and amount taking into account the nature of the project, its location, and other relevant factors.

The grantee shall request disbursements by filing with the Conservancy a fully executed "Request for Disbursement" form (available from the Conservancy). The grantee shall include in the form its name and address, the number of this agreement, the date of the submission, the amount of the invoice, the period during which the work was actually done, and an itemized description, including time, materials, and expenses incurred, of all work done for which disbursement is requested. Hourly rates billed to the Conservancy and specified in the approved work program budget shall be equal to the actual compensation paid by grantee to employees, which may include employee benefits. The form shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of funds under the grant agreement.

An authorized representative of the grantee shall sign the form. Each form shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs that the grantee has incurred.
2. Invoices from contractors that the grantee engaged to complete any portion of the work funded under this agreement and any receipts and any other source documents for costs incurred and expenditures by any such contractor, unless the Executive Officer makes a specific exemption in writing.
3. A supporting progress report summarizing the current status of the work and comparing it to the status required by the work program (budget, timeline, tasks, etc.), including written substantiation of completion of the portion of the project for which the grantee is requesting disbursement.

The grantee's failure to fully execute and submit a Request for Disbursement form, including attachment of supporting documents, will relieve the Conservancy of its obligation to disburse funds to the grantee unless and until the grantee corrects all deficiencies.

## **EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Big Sur Land Trust  
Grant Agreement No. 17-024  
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### **EXPENDITURE OF FUNDS AND ALLOCATION OF FUNDING AMONG BUDGET ITEMS**

The total amount of this grant may not be increased except by written amendment to this agreement. The grantee shall expend funds consistent with the approved project budget. Expenditure on items contained in the approved project budget, other than overhead and indirect costs, may vary by as much as ten percent without prior approval by the Executive Officer, provided that the grantee first submits a revised budget to the Conservancy and requests disbursement based on the revised budget. Any deviation greater than ten percent, and any deviation that shifts funds from approved budget items into an overhead or indirect costs category, must be identified in a revised budget approved in advance and in writing by the Executive Officer. The Conservancy may withhold payment for items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

### **PROJECT COMPLETION**

The grantee shall complete the project by the completion date provided in the "TERM OF AGREEMENT" section, above. Upon completion of the project, the grantee shall supply the Conservancy with evidence of completion by submitting:

1. The plan and any other work products specified in the work program for the project, each in a format or formats (for example, paper, digital, photographic) approved by the Executive Officer.
2. A fully executed final "Request for Disbursement."

Within thirty days of the grantee's submission of the above, the Conservancy shall determine whether the grantee has satisfactorily completed the project. If so, the Conservancy shall issue to the grantee a letter of acceptance of the project. The project shall be deemed complete as of the date of the letter.

### **EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM**

Before the project has commenced, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing.

Before the project is complete, the Conservancy may terminate or suspend this agreement for any reason by providing the grantee with seven days notice in writing. In either case, the grantee

## **EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Big Sur Land Trust  
Grant Agreement No. 17-024  
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### **EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM** (Continued)

shall immediately stop work under the agreement and take all reasonable measures to prevent further costs to the Conservancy. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding authorized in this agreement. Any notice suspending work under this agreement shall remain in effect until further written notice from the Conservancy authorizes work to resume.

If the grantee fails to complete the project as required, or fails to fulfill any other obligations of this agreement prior to the termination date, the grantee shall be liable for immediate repayment to the Conservancy of all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and not require repayment for work partially completed. This paragraph shall not be deemed to limit any other remedies the Conservancy may have for breach of this agreement.

Before the project is complete, the grantee may terminate this agreement for any reason by providing the Conservancy with seven days notice in writing and repaying to the Conservancy all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and allow early termination without repayment for work partially completed.

On or before the date of termination of the agreement under this section, whether terminated by the grantee or the Conservancy, the grantee shall provide the Conservancy with all work, material, data, information, and written, graphic or other work produced, developed or acquired under this agreement (whether completed or partial), in appropriate, readily useable form.

The parties expressly agree to waive, release and relinquish the recovery of any consequential damages that may arise out of the termination or suspension of this agreement under this section.

The grantee shall include in any agreement with any contractor retained for work under this agreement a provision that entitles the grantee to suspend or terminate the agreement with the contractor for any reason on written notice and on the same terms and conditions specified in this section.

### **INDEMNIFICATION AND HOLD HARMLESS**

The grantee shall be responsible for, indemnify and hold harmless the Conservancy, its officers, agents and employees from any and all liabilities, claims, demands, damages, or costs, including without limitation litigation costs and attorneys fees, resulting from or arising out of the willful or negligent acts or omissions of the grantee, its officers, agents, contractors, subcontractors and employees, or in any way connected with or incident to this agreement, except for the active

## EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust  
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### INDEMNIFICATION AND HOLD HARMLESS (Continued)

negligence of the Conservancy, its officers, agents or employees. The duty of the grantee to indemnify and hold harmless includes the duty to defend as provided in Civil Code Section 2778.

The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

Nothing in this agreement is intended to create in the public or in any member of it rights as a third-party beneficiary under this agreement.

### INSURANCE

Throughout the term of this agreement, the grantee shall procure and maintain insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the grantee or its agents, representatives, employees or contractors associated with the project undertaken pursuant to this agreement. As an alternative, with the written approval of the Executive Officer, the grantee may satisfy the coverage required by this section in whole or in part through: (a) its contractors' procurement and maintenance of insurance for work under this agreement, if the coverage otherwise fully satisfies the requirements of this section; or (b) the grantee's participation in a "risk management" plan, self insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section.

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:
  - a. Insurance Services Office ("ISO") Commercial General Liability coverage, occurrence basis (Form CG 00 01) or comparable.
  - b. Automobile Liability coverage - ISO Form Number CA 0001, Code 1 (any auto).
  - c. Workers' Compensation insurance as required by the Labor Code of the State of California.
2. Minimum Limits of Insurance. Grantee shall maintain coverage limits no less than:



## EXHIBIT D - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust  
Grant Agreement No. 17-024  
Page 14

### INSURANCE (Continued)

- a. General Liability:  
*(including operations, products and completed operations, as applicable)* \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this agreement or the general aggregate limit shall be twice the required occurrence limit.
- b. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- 3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Officer.
- 4. Required Provisions Concerning the Conservancy and the State of California.
  - a. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days' prior written notice by first class mail has been given to the Conservancy; or in the event of cancellation of coverage due to nonpayment, after ten days prior written notice to the Conservancy. The grantee shall notify the Conservancy within two days of receipt of notice that any required insurance policy will lapse or be cancelled. At least ten days before an insurance policy held by the grantee lapses or is cancelled, the grantee shall provide the Conservancy with evidence of renewal or replacement of the policy.
  - b. The grantee hereby grants to the State of California, its officers, agents, employees, and volunteers, a waiver of any right to subrogation which any insurer of the grantee may acquire against the State of California, its officers, agents, employees, and volunteers, by virtue of the payment of any loss under such insurance. Grantee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the grantee has received a waiver of subrogation endorsement from the insurer.
  - c. The general liability and automobile liability policies are to contain, or to be endorsed to contain, the following provisions:
    - (i) The State of California, its officers, agents and employees are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the grantee; and with respect to liability arising out of work or operations, including completed operations, performed by or on

## EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust  
Grant Agreement No. 17-024  
Page 15

### INSURANCE (Continued)

behalf of the grantee including materials, parts or equipment furnished in connection with such work or operations.

- (ii) For any claims related to this agreement, the grantee's insurance coverage shall be primary insurance with respect to the State of California, its officers, agents and employees, and not excess to any insurance or self-insurance of the State of California.
- (iii) The limits of the additional insured coverage shall equal the limits of the named insured coverage regardless of whether the limits of the named insurance coverage exceed those limits required by this agreement.
- d. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
- 5. Acceptability of Insurers. Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+;VII" or better or, in the alternative, acceptable to the Conservancy and approved in writing by the Executive Officer.
- 6. Verification of Coverage. The grantee shall furnish the Conservancy with original certificates and amendatory endorsements, or copies of the applicable policy language, effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Executive Officer before work commences. The Conservancy reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage, at any time.
- 7. Contractors. The grantee shall include all contractors as insureds under its policies or shall require each contractor to provide and maintain coverage consistent with the requirements of this section. To the extent generally available, grantee shall also require each professional contractor to provide and maintain errors and omissions liability insurance appropriate to the contractor's profession and in a reasonable amount in light of the nature of the project.
- 8. Premiums and Assessments. The Conservancy is not responsible for premiums and assessments on any insurance policy.

## **EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Big Sur Land Trust  
Grant Agreement No. 17-024  
Page 16

### **AUDITS/ACCOUNTING/RECORDS**

The grantee shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Principles" ("GAAP") published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to work under the agreement. Time and effort reports are also required. The grantee shall maintain adequate supporting records in a manner that permits tracing from the request for disbursement forms to the accounting records and to the supporting documentation.

Additionally, the Conservancy or its agents may review, obtain, and copy all records relating to performance of the agreement. The grantee shall provide the Conservancy or its agents with any relevant information requested and shall permit the Conservancy or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the required records for a minimum of three years following final disbursement by the Conservancy. The records shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during the retention period.

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

### **NONDISCRIMINATION**

During the performance of this agreement, the grantee and its contractors shall not deny the agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The grantee shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. The grantee and contractors shall comply with the provisions of the

## **EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Big Sur Land Trust  
Grant Agreement No. 17-024  
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### **NONDISCRIMINATION** (Continued)

Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the Conservancy to implement such article. The grantee shall permit access by representatives of the Department of Fair Employment and Housing and the Conservancy upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or the Conservancy shall require to ascertain compliance with this clause. The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

The grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work under this agreement.

### **INDEPENDENT CAPACITY**

The grantee, and the agents and employees of the grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

### **ASSIGNMENT**

Without the written consent of the Executive Officer, this agreement is not assignable by the grantee in whole or in part.

### **TIMELINESS**

Time is of the essence in this agreement.

### **EXECUTIVE OFFICER'S DESIGNEE**

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

**EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Big Sur Land Trust  
Grant Agreement No. 17-024  
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**AMENDMENT**

Except as expressly provided in this agreement, no change in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

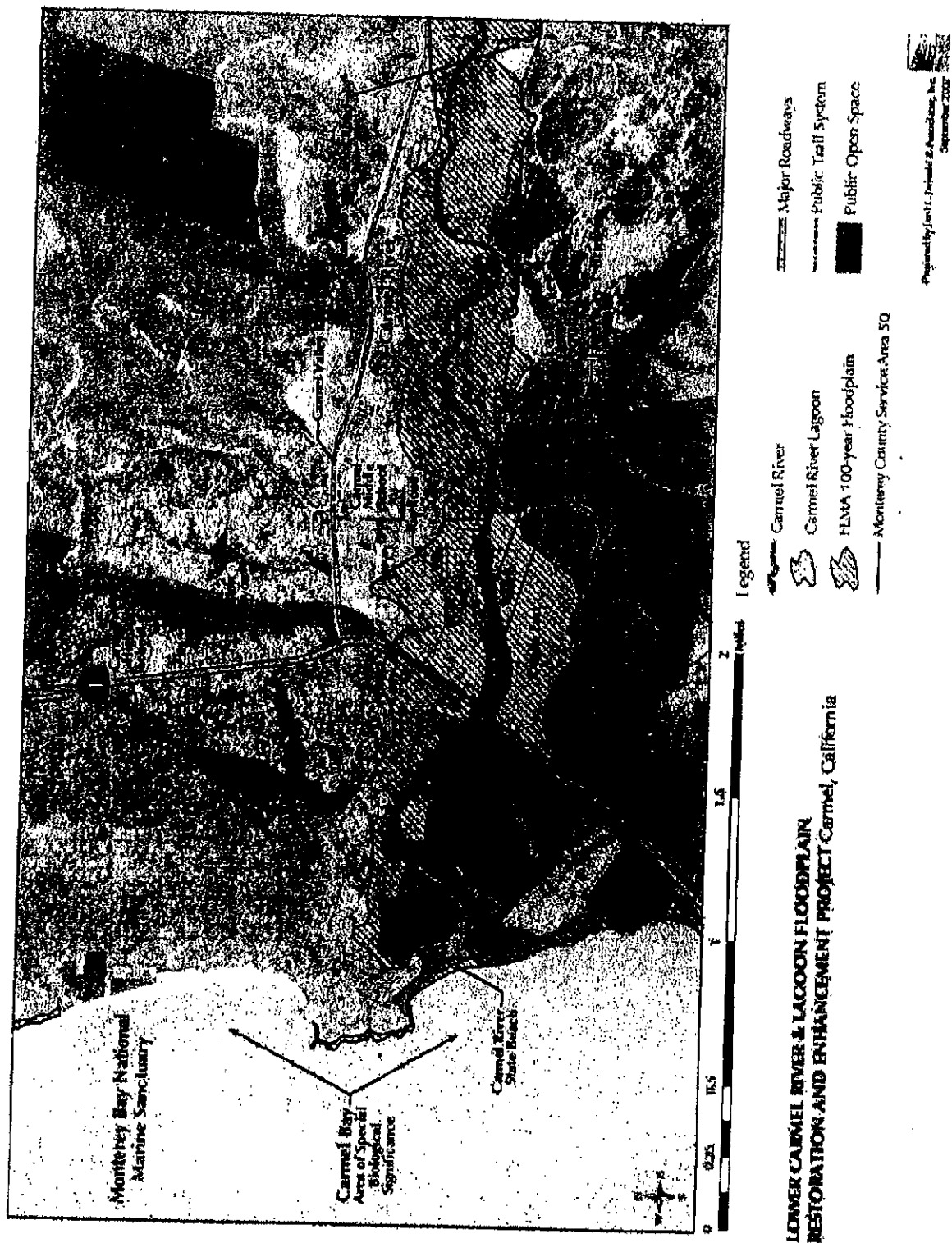
**LOCUS**

This agreement is deemed to be entered into in the County of Alameda.

**SURVIVAL**

The obligations in the "WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT" and "INDEMNIFICATION AND HOLD HARMLESS" sections, above, shall survive the termination of this agreement.

Exhibit 1b: Site Map



**COASTAL CONSERVANCY**

Staff Recommendation

June 15, 2017

**LOWER CARMEL RIVER FLOODPLAIN RESTORATION – DESIGN AND ENVIRONMENTAL COMPLIANCE**

Project No. 08-036-01

Project Manager: Tom Gandesbery

**RECOMMENDED ACTION:** Augmentation of the Conservancy's August 5, 2010 authorization to disburse an additional amount of up to \$245,000 from a grant from the U.S. Fish and Wildlife Service to the Big Sur Land Trust for the Lower Carmel River Floodplain Restoration Project in Monterey County.

**LOCATION:** Lower Carmel River, Monterey County (Exhibit 1)

**PROGRAM CATEGORY:** Integrated Coastal and Marine Resources

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**EXHIBITS**

Exhibit 1: Project Location Map

Exhibit 2: August 5, 2010 Staff Recommendation

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31111 & 31220 of the Public Resources Code:

"The State Coastal Conservancy hereby augments its August 5, 2010 authorization to disburse an additional amount of up to two hundred and forty five thousand dollars (\$245,000) of federal grant funds to the Big Sur Land Trust (BSLT) to prepare project design, conduct additional environmental review, and prepare permit applications for the Lower Carmel River Floodplain Restoration Project in Monterey County. This authorization remains subject to the August 5, 2010 resolution conditions."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed project remains consistent with the Conservancy's June 5, 2008 and August 5, 2010 authorizations regarding the purposes and objectives of Chapters 3 and 5.5 of Division

***LOWER CARMEL RIVER FLOODPLAIN RESTORATION***

21 of the Public Resources Code, respectively funding feasibility studies and Integrated Coastal and Marine Resources Protection; the Project Selection Criteria and Guidelines; local watershed management plans and water quality control plans; the nonprofit qualifications of the BSLT; and compliance with the California Environmental Quality Act.”

**PROJECT SUMMARY:**

Staff recommends that the Conservancy amend its August 5, 2010 authorization to disburse an additional \$245,000 to the Big Sur Land Trust (BSLT) for the Lower Carmel River Floodplain Restoration Project in Monterey County. The additional funding will be used to work with the County of Monterey to prepare a Draft and Final Environmental Impact Report and Statement (EIR/EIS), consistent with the California Environmental Policy Act and National Environmental Policy Act (CEQA/NEPA, respectively).

Funding for the proposed augmentation will be from a U.S. Fish and Wildlife Service (USFWS) National Coastal Wetland Conservation \$925,000 grant awarded to the Conservancy in 2010 specifically for planning and implementation of the Lower Carmel River Floodplain Restoration project. This grant originally stipulated that \$180,000 could be used for project planning and the remaining \$745,000 was reserved for project implementation. In August 2010, the Conservancy authorized the use of \$180,000 of these funds for planning, environmental review, and permitting. However, the project partners recently decided that the project required a more comprehensive environmental document, including preparation of an EIS pursuant to NEPA. As a result, BSLT requested, an additional \$245,000 in funding to cover the planning phase of the project, leaving \$500,000 for future implementation of the project. At this writing, while the USFWS staff support this approach, it is currently evaluating a budget revision to the grant to allocate \$425,000 for planning and \$500,000 for implementation and to extend the grant term. Conservancy staff expects that the USFWS will formally approve this grant amendment prior to the Conservancy's June 15, 2017 meeting.

Since 2010, the BSLT has been working closely with the County of Monterey, the Carmel Area Wastewater District (CAWD), California State Department of Parks and Recreation (State Parks) and other stakeholders to complete restoration designs and environmental clearances. The County agreed to oversee construction of the project, and as a result has taken over the lead partnership role working in continued collaboration with BSLT. The project involves large amounts of grading to reestablish floodplain and construction of a causeway along Highway 1. For additional project information see Exhibit 2.

Staff plans to recommend additional funding for implementation of the project after the environmental document is complete.

**Site Description:** See Exhibit 2, “Site Description” section.

**Project History:** See Exhibit 2, “Project History” section.



## EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

### LOWER CARMEL RIVER FLOODPLAIN RESTORATION

#### PROJECT FINANCING

##### Current authorization

U.S. Fish and Wildlife Service	\$245,000
<b>Subtotal of Current Authorization</b>	<b>\$245,000</b>

##### Previous authorization

U.S. Fish and Wildlife Service	\$180,000
Coastal Conservancy	\$250,000
U.S. Environmental Protection Agency	\$200,000
County of Monterey (requested)	\$75,000
Big Sur Land Trust	<u>\$65,000</u>
<b>Subtotal of Previous Authorization</b>	<b>\$770,000</b>

**Total Project Costs** **\$1,015,000**

The funding for this augmentation is provided from the USFWS National Coastal Wetlands Conservation Grant awarded to the Conservancy specifically for the Lower Carmel River Restoration Project. The National Coastal Wetlands Conservation Grant Program provides matching grants to States for acquisition, restoration, management or enhancement of coastal wetlands. The Big Sur Land Trust has provided a land donation, in-kind services, and additional funding to serve as the non-federal match necessary to receive these funds. USFWS is expected to approve a budget revision to the grant to allocate \$360,000 for planning and \$500,000 for implementation.

#### CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The project remains consistent with the Conservancy's enabling legislation as described in the August 5, 2010 staff recommendation (See Exhibit 2).

#### CONSISTENCY WITH CONSERVANCY'S 2013 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S), AS REVISED JUNE 25, 2015:

The project is consistent with the Conservancy's Strategic Plan goals and objectives as described in the August 5, 2010 staff recommendation (See Exhibit 2).

#### CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The project remains consistent with the Conservancy's Project Selection Criteria and Guidelines as described in the August 5, 2010 staff recommendation (Exhibit 2). However, since the August 2010 authorization, the Project Selection Criteria & Guidelines were amended to include an additional required criterion, which is that a project must promote and implement state plans and policies.

***LOWER CARMEL RIVER FLOODPLAIN RESTORATION***

**Promotion and implementation of state plans and policies:** This proposed project is consistent with the following plans and policies:

- The project implements the *California Water Action Plan* (California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture, 2014), which includes goal number 4: protect and restore important ecosystems by improving rearing habitat for SCCC steelhead. This project will address this goal.
- The project is consistent with the California Department of Fish and Wildlife's 2005 *California Wildlife Action Plan*, which sets forth goals for the Central Coast region that include protecting sensitive species and important wildlife habitat and restoring anadromous fish populations. This project will address both of these goals.
- The project implements a recovery objective identified for the Carmel River biogeographic group in the South-Central California Coast Steelhead Recovery Plan (National Marine Fisheries Service, 2013) specifically, to "restore suitable habitat conditions and characteristics to support all life history stages of viable [steelhead] populations..." DPS Recovery Objective 6.2 (Page 6-2).

**CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

The project remains consistent with the Local Coastal Program as described in the August 5, 2010 staff recommendation (See Exhibit 2).

**CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/  
STATE WATER QUALITY CONTROL PLAN:**

The project remains consistent with local watershed management plans and the State Water Quality Control Plan as described in the August 5, 2010 staff recommendation (See Exhibit 2).

**COMPLIANCE WITH CEQA:**

In its August of 2010 authorization, the Conservancy determined that the project was statutorily exempt from the California Environmental Quality Act (CEQA), pursuant to 14 Cal. Code of Regulations Section 15262 because the project only involves preparation of planning studies and environmental documents for possible future actions which the Conservancy has not approved, adopted, or funded and the studies will consider environmental factors. (See Exhibit 2) . . .

The proposed augmentation only increases funding for the preparation of the same planning studies and environmental documents that constitute the project. The addition of funding for this statutorily-exempt project does not have the potential for a significant effect on the environment. (See 14 Cal. Code of Regs Section 15382). Therefore, no new analysis or further compliance is required under CEQA for the approval of additional funding for this project

**EXHIBIT D - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**



**United States Department of the Interior**

**FISH AND WILDLIFE SERVICE**

Pacific Southwest Region  
Wildlife & Sport Fish Restoration Program  
2800 Cottage Way, W-1729  
Sacramento, California 95825-1846



In Reply Refer To:  
FWS/R8/WSFR

Ms. Trish Chapman  
California Coastal Conservancy  
1330 Broadway, Suite 1300  
Oakland, California 94612

August 27, 2010

Subject: Notice of Federal Assistance Award for C-31-L-1

Dear Ms. Engeman:

The enclosed Application for Federal Assistance, C-31-L-1, Odello East Floodplain Restoration Project, Monterey County, CA, is approved effective January 4, 2010, with a total Federal share in the amount of \$925,000. The performance period of this award is January 4, 2010, through December 31, 2013.

**Terms of Acceptance:** Per <http://www.doi.gov/pam/TermsandConditions.html>, acceptance of a Federal Financial award from the Department of the Interior (DOI) carries with it the responsibility to be aware of, and comply with the terms and conditions of the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to, and as approved by DOI and are subject to the terms and conditions incorporated either directly or by reference to the following:

- Program legislation/regulation.
- Special terms and conditions.
- Code of Federal Regulations/Regulatory Requirements, as applicable

43 CFR 12(A) Administrative and Audit Requirements and Cost Principles for Assistance Programs

43 CFR 12(E) Buy American Requirements for Assistance Programs



**EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

43 CFR 12(C) Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

43 CFR 12(F) Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, other Non-Profit and Commercial Organizations

43 CFR 43 Governmentwide Requirements for a Drug-Free Workplace

43 CFR 42 Governmentwide Debarment and Suspension (Nonprocurement)

43 CFR 18 New Restrictions on Lobbying

Interim Guidance for Financial Status and Performance Reporting, dated May 12, 2009

**Special Conditions and Provisions for land acquisition:**

- Cost accounting is required at the Grant level.
- USFWS must receive: (a) annual interim financial status reports and annual interim performance reports; and (b) final financial status reports and performance reports no later than 90 days after the expiration or termination of grant support.
- This project needs additional review and environmental compliance in order to conduct the earth moving activities proposed. Only the land acquisition, project design and permitting, monitoring and surveys, and project management are funded at this time. Up to \$216,000 may be drawn for the aforementioned activities. The remaining funds, (\$709,000) are not released until environmental compliance is completed per the paragraphs below, and the Wildlife and Sport Fish Restoration Program (WSFR), Grant Management Specialist has informed the grantee in writing that they may continue.
- Although the grant funds to be used in the earth moving and restoration portion of the project will not be used to work in the streambed or in any listed species habitat, analysis must be completed and any necessary permits (ESA, ACOE, RWQCB etc) must be acquired prior to being able to draw funding for this portion of the project. The grantee will provide copies of the permits and/or documentation to the WSFR Office before any funds for the earth moving and restoration planting can be drawn.
- Part of the project is post project restoration and water quality monitoring. Since it is unknown, if any listed or candidate species will repopulate the restored areas during the term of this grant; if a listed or candidate species is encountered during monitoring, then monitoring shall cease in that area until the grantee/subgrantee have consulted with the USFWS Ventura Field Office and received any needed authorization or permits to continue. Any permits required to continue monitoring and surveys shall be provided to the WSFR Grant Management Specialist.

**EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

-There will be no in-stream work undertaken using funds from this grant. Therefore, there would be No Effect to steelhead. However, if this situation were to change, as evidenced by the ongoing monitoring, the grantee/subgrantee will cease the activity until consulting with NOAA and providing the necessary documentation to the WSFR Office.

-The grantee/subgrantee will consult with the State Historic Preservation Office prior to conducting the earth-moving activities planned for this project. Prior to releasing the funding for the earthmoving activities, the WSFR Office must be provided with documentation that the SHPO consultation has been completed and any conditions have been complied with.

- Prior to acquiring the donated nonfederal match property, the following conditions must be completed:

1. A certified appraiser must conduct an appraisal that meets Federal land acquisition standards. Specifically the appraisal must comply with the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA). This must occur for the property you plan to encumber as non-Federal land match for the Federal grant share.
2. Following the appraisal, an appraisal review is required. The appraisal review may be provided by your agency, by contract, or through agreement with another state agency. Only a certified or licensed review appraiser may conduct the review appraisal. If you do not have access to a certified or licensed review appraiser the WSFR office can coordinate with the Office of Valuation Services (OVS) to conduct the review appraisal for your agency. Please be aware that workload issues in the OVS may affect the timeliness of the appraisal review. At least 90-days will be required to obtain a review by OVS.
3. The appraisal and review appraisal documents must be submitted to the WSFR office for review and approval prior to drawing the funds for which this property is the nonfederal match.
4. The deed of the nonfederal match properties shall be encumbered to ensure that the land will be managed, in perpetuity, to maintain the coastal wetland values consistent with the goals and objectives of this grant. Evidence of such shall be included as part of the final report.

Please contact me or Becky Miller at (916) 978-6185 if you have any questions.

Sincerely,



Susan Detwiler, Chief  
Wildlife & Sport Fish Restoration Program

Cc: Sean Williamson, State Coastal Conservancy, Oakland, CA

**EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**



**United States Department of the Interior**

**FISH AND WILDLIFE SERVICE**  
Pacific Southwest Region  
Wildlife & Sport Fish Restoration Program  
2800 Cottage Way, W-1729  
Sacramento, California 95825



In Reply Refer To:  
FWS/R8/WS17R

Ms. Kate Goodnight  
State Coastal Conservancy  
1330 Broadway, Suite 1300  
Oakland, California 94612

January 16, 2014

**Subject: Notice of Federal Assistance Award for F10AP00825 (C-31-L-1) Amendment 1**

Dear Ms. Goodnight:

The enclosed Application for Federal Assistance, F10AP00825, Amendment 1, FY 2010, Coastal Wetland, Odello East Floodplain Restoration Project, request for time extension is approved effective December 16, 2013. The performance period of this award is January 4, 2010, through December 31, 2018.

**Terms of Acceptance:**

Per [http://www.doi.gov/pam/programs/financial\\_assistance/TermsandConditions.cfm](http://www.doi.gov/pam/programs/financial_assistance/TermsandConditions.cfm), acceptance of a Federal Financial award from the Department of the Interior (DOI) carries with it the responsibility to be aware of and comply with the terms and conditions of the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to, and as approved by DOI and are subject to the terms and conditions incorporated either directly or by reference to the following:

- Program legislation/regulation.
- Special terms and conditions.
- Code of Federal Regulations/Regulatory Requirements, as applicable

2 CFR 25 – Central Contractor Registration and Data Universal Numbering System

2 CFR 170 – Reporting Sub-awards and Executive Compensation

2 CFR 1400 – Government wide Debarment and Suspension (Non-procurement)

## **EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

2 CFR 175 – Trafficking Victims Protection Act of 2000

43 CFR 12(A) Administrative and Audit Requirements and Cost Principles for Assistance Programs

43 CFR 12(E) Buy American Requirements for Assistance Programs

43 CFR 12(C) Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

43 CFR 12(F) Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, other Non-Profit and Commercial Organizations

43 CFR 43 Governmentwide Requirements for a Drug-Free Workplace

43 CFR 42 Governmentwide Debarment and Suspension (Nonprocurement)

43 CFR 18 New Restrictions on Lobbying

305 DM 3 Integrity of Scientific and Scholarly Activities

Interim Guidance for Financial Status and Performance Reporting, dated May 12, 2009

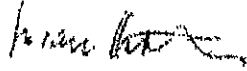
### **Special Provisions and Conditions:**

- All provisions and conditions previously identified and listed for this grant shall remain in effect with this amendment.
- Annual Federal Financial Reports (SF425) and Performance Reports will be due June 29, 2014, and on that date every year until the completion of the grant. Final Reports will be due 90 days from the ending date of the grant (Due: March 31, 2019). For further information regarding reporting requirements and sanctions please see the reporting guidance issued May 12, 2009 in the Wildlife and Sport Fish Restoration Toolkit located at:  
<http://wsfrprograms.fws.gov/subpages/toolkitfiles/intgdrpt.pdf>
- Under the terms and conditions of this award, your organization must maintain an active SAM registration until the final financial report is submitted or final payment is received, whichever is later. If your organization's SAM registration expires during the required period, the U.S. Fish & Wildlife Service will suspend payment under this and all other Service awards to your organization until you update your organization's SAM registration.
- Your organization's CCR registration is set to expire on December 18, 2014. Under the terms and conditions of this award, your organization is required to maintain an active CCR registration throughout the entire approved award period.

**EXHIBIT D -- STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Please contact me or Bart Prose at (916) 978-6152 if you have any questions.

Sincerely,



Susan K. Detwiler, Chief  
Wildlife & Sport Fish Restoration Program

Enclosure: SF424 and Grant Narrative





United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Pacific Southwest Region  
Wildlife & Sport Fish Restoration Program  
2800 Cottage Way, W-1729  
Sacramento, California 95825



In Reply Refer to:  
PWS/R8/WSFR

August 16, 2017

Mr. Thomas Gandesbery, Project Manager  
California State Coastal Conservancy  
1515 Clay Street, 10<sup>th</sup> Floor  
Oakland, California 94612-1401  
DUNS: 808322408

Subject: Notice of Amendment to Grant Award for **FBMS# F10AP00825 (C-31-L-1)**  
**Amendment 2**

Dear Mr. Gandesbery:

Your organization's application for Federal financial assistance amendment titled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project (previously Odello East Floodplain Restoration Project)" submitted to the U.S. Fish and Wildlife Service (Service)'s CFDA Program 15.614 is approved effective March 21, 2017. This award is amended as follows: time extension, modify scope, budget and match.

The performance period of this award is January 4, 2010 through December 31, 2019. Only allowable costs resulting from obligations incurred during the performance period and any authorized pre-award costs may be charged to this award. All obligations incurred under the award must be liquidated no later than 90 calendar days after the end of the performance period, unless the Service approves a final financial reporting period extension (see Reporting Requirements section below). If you need more time to complete project activities, you must submit a written request to [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov) before the end of the stated performance period.

**Payments:**

Your organization has completed enrollment in U.S. Treasury's Automated Standard Application for Payment (ASAP) system

([https://www.fiscal.treasury.gov/fs-services/gov/pmt/asap/asap\\_home.htm](https://www.fiscal.treasury.gov/fs-services/gov/pmt/asap/asap_home.htm)). When requesting payment in ASAP, your Payment Requestor will be required to enter an Account ID (see table below). The number assigned to this award is the partial Account ID in ASAP. When entering the Account ID in ASAP, the Payment Requestor should enter the award number identified in the subject line on letter followed by a percent sign (%). Refer to the ASAP.gov Help menu for detailed instructions on requesting payments in ASAP.

**EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Use the information below to identify your award funds at: <https://www.asap.gov>

ASAP Accounting Information		FY/Funding Title	Federal Share	% of Federal Share	State Share	% of State Share	Total Award
F10AP00825-0001-0000	Orig	Coastal Wetland	925,000	14%	5,472,100	86%	6,397,100
	Amd 1	Time Ext only					
	Amd 2	Time Ext, Scope & Match Chg		75%	(5,163,767)	25%	(5,163,767)
<b>Totals:</b>			<b>\$925,000</b>	<b>75%</b>	<b>\$308,333</b>	<b>25%</b>	<b>\$1,233,333</b>

**Terms of Acceptance:**

Acceptance of a financial assistance award (i.e., grant or cooperative agreement) from the Service carries with it the responsibility to be aware of and comply with the terms and conditions applicable to the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to and approved by the Service. Awards are subject to the terms and conditions incorporated into the notice of award either by direct citation or by reference to the following: Federal regulations; program legislation or regulation; and special award terms and conditions. The terms and conditions of Service awards flow down to subrecipients and contractors, unless a particular award term or condition specifically indicates otherwise. The Federal regulations applicable to Service recipients and their subrecipients and contractors are listed by recipient type in the **Service Financial Assistance Award Terms and Conditions** posted on the Internet at <http://www.fws.gov/grants/atc.html>. If you do not have access to the Internet and require a printed copy of the award terms and conditions, contact the Service Project Officer identified below.

If Recipient decides to not accept this award, Recipient must notify the Service Project Officer in writing within 30 calendar days of that decision.

**Special Conditions and Provisions:**

- Your organization's CCR registration is set to expire on May 30, 2018. Under the terms and conditions of this award, your organization is required to maintain an active CCR registration throughout the entire approved award period.
- All provisions and conditions previously identified and listed for this grant shall remain in effect with this amendment.
- This grant may not be extended beyond December 31, 2019.
- This project requires additional review and completion of environmental compliance prior to project implementation. As such, \$500,000 for project implementation is not approved to be drawn until such compliance has been completed and you are notified in writing from us that you may draw these funds. However, up to \$425,000 may be drawn for environmental review, planning, and project management.

## EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

### Reporting Requirements:

Report Title	Report Period:	Due Date
Interim Federal Financial Report (SF-425)	01/04/2010-03/31/2018	06/29/2018
Interim Performance Report	01/04/2010-03/31/2018	06/29/2018
Interim Federal Financial Report (SF-425)	01/04/2010-03/31/2019	06/29/2019
Interim Performance Report	01/04/2010-03/31/2019	06/29/2019
Final Federal Financial Report (SF-425)	01/04/2010-12/31/2019	03/30/2020
Final Performance Report	01/04/2010-12/31/2019	03/30/2020

All Reports should be sent to [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov).

Recipients must use the Standard Form (SF) 425, *Federal Financial Report* form for all financial reporting. This form is available at <http://www.grants.gov/web/grants/forms/post-award-reporting-forms.html#sortBy=1> or Wildlife and Sport Fish Restoration Toolkit located at: <http://fawiki.fws.gov/display/WTk/Toolkit+Homepage>.

Performance reports must contain: 1) a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work; 2) a description of reasons why established goals were not met, if appropriate; and 3) any other pertinent information relevant to the project results. Please include the Service award number provided in the subject line of this letter on all reports.

Financial and performance reporting due dates may be extended by the Service upon receipt of a written request addressed to the Service at [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov) identifying the type of report to be extended, the requested revised due date, and a justification for the extension. The Service may approve an additional extension if justified by a catastrophe that significantly impairs the recipient's operations. Requests for reporting due date extensions must be received by the Service no later than one day before the original reporting due date.

**System for Award Management (SAM) Registration:** Under the terms and conditions of this award, your organization must maintain an active SAM registration at <https://www.sam.gov/portal/public/SAM/> until the final financial report is submitted or final payment is received, whichever is later. If your organization's SAM registration expires during the required period, the Service will suspend payment under this and all other Service awards to your organization until you update your organization's SAM registration.

### Project Contacts:

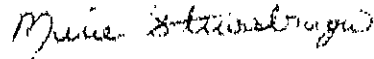
The Service Project Officer for this award is:	The Recipient Project Officer for this award is:
Justin Cutler, Grant Management Specialist Phone:(916) 414-6457 Cell:(916) 768-2336 Email: <a href="mailto:justin_cutler@fws.gov">justin_cutler@fws.gov</a>	Thomas Gandesbery, Project Manager Phone: (510) 286-7028 Email: <a href="mailto:tgandesbery@scs.ca.gov">tgandesbery@scs.ca.gov</a>

**EXHIBIT D – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024**

Please contact Justin Cutler with any questions. Please include the Service award number provided in the subject line of this letter in all written communications.

Thank you for your interest and efforts in supporting conservation for fish and wildlife and their habitats.

Sincerely,



Marie Strassburger  
Chief

Enclosure: SI424, purpose

**EXHIBIT 2**  
**PROFESSIONAL SERVICES AGREEMENT**  
**AND**  
**AMENDMENTS NO. 1 – 3**  
**TO THE PROFESSIONAL SERVICES AGREEMENT**  
**BETWEEN**  
**DENISE DUFFY & ASSOCIATES, INC.**  
**AND THE**  
**COUNTY OF MONTEREY**  
**FOR THE**  
**CARMEL RIVER FLOODPLAIN RESTORATION AND**  
**ENVIRONMENTAL ENHANCEMENT PROJECT**

Reimbursement Agreement  
The Big Sur Land Trust  
Carmel River Floodplain Restoration and Environmental Enhancement Project  
RMA – Planning  
Term: Effective Upon Latest Date of Signature – Fully Reimbursed  
Not to Exceed: \$187,488



## Monterey County

### Board Order

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

**Agreement No.: A-12775**

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

- a. Approved a Professional Services Agreement with Denise Duffy & Associates, Inc. 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 located in the Carmel Area Land Use Plan in the amount not to exceed \$256,769, for a term of July 29, 2014 through June 30, 2016; and
- b. Authorized the Contracts/Purchasing Officer to execute the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount.  
(REF140066/Denise Duffy and Associates and REF140048/Carmel River Floodplain Restoration and Environmental Enhancement Project, in Carmel)

PASSED AND ADOPTED on this 29th day of July 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter

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 77 for the meeting on July 29, 2014.

Dated: July 29, 2014  
File Number: A 14-205

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

By

Deputy

**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES  
WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS  
(MORE THAN \$100,000)\***

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:  
Denise Duffy & Associates, Inc.  
(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibit A in conformity with the terms of this Agreement. The services are generally described as follows:  
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
2. **PAYMENTS BY COUNTY.** County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, 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 \$ 256,769.25.
3. **TERM OF AGREEMENT.** The term of this Agreement is from July 29, 2014 to June 30, 2016, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.
4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A**    **Scope of Services/Payment Provisions**

**5. PERFORMANCE STANDARDS.**

5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.

5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

\*Approved by County Board of Supervisors on \_\_\_\_\_

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

#### 6. PAYMENT CONDITIONS.

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified, the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the County may require. The Contract Administrator or his or her designee 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.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

#### 7. TERMINATION.

7.01. During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

#### 8. INDEMNIFICATION.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.



**8.02 Indemnification for Design Professional Services Claims:**

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 the 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 the COUNTY, or defect in a design furnished by the COUNTY.

**8.03 Indemnification for All Other Claims or Loss:**

For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

**9.0 INSURANCE.**

**9.01 Evidence of Coverage:**

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's, Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

**9.02 Qualifying Insurers:**

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

**9.03 Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

☐ Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

☐ Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

☐ Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

☐ Modification (Justification attached; subject to approval).

#### 9.04 Other Insurance Requirements.

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed

operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

#### 10. RECORDS AND CONFIDENTIALITY.

- 10.01 Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.02 County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.03 Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

- 10.04 Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.05 Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.
11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations, which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.
12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.
13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability, which County may incur because of CONTRACTOR's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Dalia Mariscal-Martinez, Management Analyst II	Denise Duffy, Principal
Name and Title	Name and Title
County of Monterey, Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901	Denise Duffy & Associates, Inc. 947 Cass Street, Suite 5 Monterey, CA 93940
Address	Address
(831) 755-8966	(831) 373-4341
Phone	Phone

15. **MISCELLANEOUS PROVISIONS.**

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

This space is left blank, intentionally.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

By: Debra Bayard, M.S.

Date: August 1, 2014

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By: Maureen P. [Signature]

Date: 7-21-2014

Approved as to Fiscal Provisions<sup>2</sup>

By: [Signature]

Date: 7-21-14

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_

Date: \_\_\_\_\_

CONTRACTOR

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

By: Denise Duffy

(Signature of Chair, President, or Vice-President)\*

Denise Duffy, President  
Name and Title

Date: 7/18/14

By: Denise Duffy

(Signature of Secretary, Asst. Secretary/CFO, Treasurer or Asst. Treasurer)\*

Denise Duffy, Secretary  
Name and Title

Date: 7/18/14

County Board of Supervisors' Agreement Number: \_\_\_\_\_

\*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.

<sup>1</sup>Approval by County Counsel is required for all Professional Service Agreements over \$100,000

<sup>2</sup>Approval by Auditor/Controller is required for all Professional Service Agreements

<sup>3</sup>Approval by Risk Management is required only if changes are made in paragraph 8 or 9

## **EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**

### **SCOPE OF WORK FOR ENVIRONMENTAL DOCUMENTATION, CEQA/NEPA, AND REGULATORY PERMITTING**

#### **FOR THE**

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

Prepared April 8, 2014

#### **INTRODUCTION**

The Monterey County Resource Management Agency (RMA) is proposing to enhance native riparian and wetland habitat and hydrologic function to a portion of the lower floodplain along the Carmel River on property owned by the Big Sur Land Trust, California State Parks (State Parks), Monterey Peninsula Regional Park District, and Clint and Margaret Eastwood (APN 243-071-006-000, 243-021-007-000, 243-071-003-000, and 157-121-001-000). The proposed Carmel River Floodplain Restoration and Environmental Enhancement Project (herein referred to as the "project") is located at the downstream end of the Carmel River Watershed, approximately one mile from its mouth and immediately east of State Route 1 (SR 1). A small portion of the project is also located west of SR 1. The project consists of three distinct, but related, project actions/components, each of which would be completed based on available funding.

The project actions consist of:

- Grading the existing farmland to create an elevated agricultural preserve and floodplain restoration.
- Replacing a portion of the SR 1 roadway embankment with a causeway section.
- Removing sections of earthen levees on the south side of the Carmel River channel and grading a portion of the eastern boundary of the project site to encourage flood flows to enter into the south floodplain area at Odello East.

An Initial Study Mitigated Negative Declaration (IS/MND) has been certified for the project. The lead agency was the Monterey County Water Resources Agency. The project falls within the jurisdiction of the California Department of Transportation (Caltrans). This proposed scope and cost estimate assumes that Caltrans will require a separate IS/MND and technical studies for the project to be prepared to their standards with the RMA as the California Environmental Quality Act (CEQA) lead agency. For the purposes of this proposed scope and cost estimate, it is assumed that the RMA will determine a combined CEQA/National Environmental Quality Act (NEPA) document as appropriate to move the project forward as Caltrans has identified the requirement for NEPA compliance. Caltrans has identified the requirement for the preparation of a number of technical documents for the project within the Project Study Report (PSR) prepared for the project and approved by Caltrans on 11/2/10. The exact scope of the technical documents that will be required is not certain at this time. As a result, this scope



## **EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

and cost estimate is subject to change based on guidance and direction provided by Caltrans as the project progresses.

### **TASK 1.0 PROJECT INITIATION**

Based upon consultation with the RMA and Denise Duffy & Associates, Inc.'s (DD&A) knowledge of the project, this task will include work necessary to initiate the environmental services including the following tasks:

- Review additional available background information,
- Conduct initial project management and subconsultant coordination,
- Attend up to two (2) kick-off meetings with the RMA, Caltrans, and key agencies to discuss the project documentation approach and finalize the scope of work,
- Identify data and documentation needs,
- Confirm format, quantities and distribution of deliverables, and
- Establish schedules and protocols for communication.

### **TASK 2.0 PREPARE NEPA-REQUIRED TECHNICAL STUDIES**

As defined by the PSR completed and approved for the project by Caltrans, the documents listed below will be required for use in completing the NEPA documentation and to satisfy the legal requirements of the various federal statutes and regulations, and issuance of the appropriate permits by federal agencies with jurisdiction over resources affected by the project. These technical studies will be used to support both the CEQA and NEPA analysis and appended to the combined CEQA/NEPA document to ensure the analysis is consistent. DD&A assumes that any other technical studies (not identified below) required for this project would be completed under separate contracts. If DD&A is requested to provide additional technical studies, an amendment to this Agreement would be required to prepare these studies.

DD&A shall prepare the following technical reports following standard Caltrans guidelines to provide sufficient information for the CEQA/NEPA analysis to satisfy the legal requirements of the various state and federal statutes and regulations, and issuance of the appropriate permits by state and federal agencies with jurisdiction over the project:

#### **Task 2.1 Natural Environmental Study (NES)**

The NES will include documentation of the biological resources in the project area and an assessment of the impacts of the project alternatives on those resources. This report will provide recommendations on the level of the potential impacts and mitigation measures. The NES will include the following:

- Wetlands Evaluation: A wetland delineation has been prepared for the project. The map and letter report of findings will be presented to the U.S. Army Corps of Engineers (ACOE) upon approval by Caltrans and the RMA, and included in the NES as an appendix.

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- **Special-Status Species and Sensitive Habitat Assessment:** A site reconnaissance survey has been performed in order to evaluate sensitive or potential special-status species habitat within the project boundaries and document current conditions. Communication with appropriate resource agencies will be conducted in order to generate mitigation measures to reduce, minimize or avoid potential impacts. Additionally, a botanical survey will be conducted in the summer of 2014 to update previously conducted surveys. This information will be incorporated into the NES.

### **Task 2.2 Section 106 Documents**

- **Delineate Area of Potential Effect (APE):** The DD&A team will assist the RMA in the preparation of an APE map for Caltrans' approval. The APE map will be plotted on an aerial photograph or other base at a scale of approximately 1"-200" and will clearly depict the existing and proposed right-of-way.
- **Archaeological Survey Report (ASR):** A Preliminary Archaeological Reconnaissance Report (PARR) was prepared by Archaeological Consulting for the project and will be used as the basis for the preparation of the ASR. DD&A will manage the preparation of the ASR by Mary Doane of Archeological Consulting. The scope of work includes a California Historic Resources Information System (CHRIS) records search at the Northwest Regional Information Center to determine whether there are any previously recorded archeological sites or other historic resources recorded within the APE or in the immediate vicinity, whether there has been any previous archaeological work done within the APE or in the immediate vicinity, and a field inspection of the APE. In addition, a search of the Sacred Lands files through the Native American Heritage Commission (NAHC) and consultation with locally affiliated Native Americans will be completed.
- **Historic Property Survey Report (HPSR):** After completion of the draft ASR, the DD&A team will prepare the draft HPSR which will serve as a summary of the findings and will include a description of the APE and the public participation process.

### **Task 2.3 Biological Assessment**

A biological assessment (BA) is required for any project where federally listed species may be adversely affected, resulting in formal consultation, or affected but not adversely affected, resulting in informal consultation. In addition, even if there will be no effect on any federally listed species, the presence of proposed or designated critical habitat may require that a BA be prepared. The project is within and adjacent to designated critical habitat for the federally listed California Red-Legged Frog and South Central Coast Steelhead. As a result, the project must assess if the primary constituent elements (PCEs) of critical habitat are present, how much of the action area contains the PCEs, and whether the project will have an adverse impact on critical habitat within the action area. This will be determined and presented in the BA.

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The BA will be used for the federal environmental review process and is the basis for the federal regulatory agencies to make an effective determination on a proposed project and issue the required authorizations. The BA will include identification and description of the biological resources in the project area specific to federal listed species and an assessment of the impacts of the project and alternatives on those resources. This report will provide recommendations on the significance of the potential impacts and mitigation measures. This technical report will provide sufficient information for the NEPA analysis to satisfy the legal requirements of the relevant federal statutes and regulations, and the issuance of the appropriate permits by regulatory agencies with jurisdiction over natural resources affected by the project.

### **Task 2.4 Scenic Resource Evaluation (SRE) and Visual Impact Assessment Memorandum (VIA)**

This task includes the preparation of a SRE as the project site is located within the limits of an officially designated State Scenic Highway and must be reviewed for the presence of scenic resources. The SRE will consider the site-specific visual and historic context, anticipated sensitivity of identified viewers, and the extent of visibility. The SRE will examine the project limits; determine if scenic resources exist within those limits including the project viewshed, and whether they will be impacted by the project. The impact assessment will also determine if views of scenic resources will be obstructed. The SRE will be based on an evaluation of the public's anticipated perception of the existing resource and its visual setting.

This task also includes the preparation of a VIA as the project has the potential to change the visual environment. The assessment level for the VIA can range from "no formal analysis" to a "formal VIA." If a VIA is required and if the project is within the limits of an officially designated State Scenic Highway, the SRE is included in the VIA. If the project is within the limits of an officially designated State Scenic Highway but no VIA is required; an SRE must be prepared for the project.

The level of VIA is determined using the VIA Questionnaire. In general, projects replacing or rehabilitating existing facilities (e.g., pavement overlay, striping, sign replacement) do not constitute a change in character to those facilities, and as such, will not require further analysis. Projects that constitute negligible or very minor visual change will require a memorandum that describes the site characteristics and provides confirmation of minimal changes. Projects resulting in a noticeable level of visual change require that a VIA be completed. It is assumed for this task that the required level of analysis will be a memorandum. This task does not include the preparation of a formal VIA.

### **Task 2.5 Paleontological Identification Report (PIR)**

DD&A will retain Archeological Consulting to prepare a PIR. This task will include coordination with appropriate agencies and the identification of potentially significant paleontological resources within the PIR. The PIR will include mapping of sufficient detail to correlate the potential project footprint with detailed geologic maps and paleontological databases if they exist for the project area. The PIR will determine whether there are known or reasonably anticipated paleontological resources within the

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project area. If so, it must further be determined whether or not project excavation may impact the resource. The presence of known or reasonably anticipated resources that may be impacted by the project indicates that a Paleontological Evaluation Report (PER) will be needed as a part of subsequently preparing the project's environmental document. This scope assumes that a PER will not be required and does not include the preparation of a PER.

### **Task 2.6 Initial Site Assessment (ISA) for Hazardous Waste**

DD&A will retain AEI Consultants to prepare a Phase I Environmental Site Assessment in accordance with the most current American Society for Testing Materials (ASTM) E1527-05 and Caltrans standards. This analysis would include the following: a site inspection; review of local, regional, and state agency files for the subject property and adjacent/surrounding properties of concern; site history and land use review; interviews with knowledgeable persons (i.e., owners, property managers, tenants, neighbors); and review of aerial photographs.

### **Task 2.7 Noise Study Report (NSR)**

DD&A will retain Illingworth & Rodkin to prepare the NSR for the project. The noise analysis will consist of a combination of long-term and short-term observed noise measurements at various locations to quantify noise levels throughout the site and in surrounding areas. The noise analysis will identify existing noise sources and sensitive receptors in the project vicinity. Noise and land use compatibility of the project will be assessed by adjusting existing noise data as necessary.

### **Task 2.8 Air Quality Study (AQS)**

The project site is located within the jurisdiction of the Monterey Bay Unified Air Pollution Control District (MBUAPCD). Primary air quality issues associated with this project would be impacts to regional air quality from indirect sources (i.e., project traffic generation) and temporary emissions of dust and exhaust from construction. DD&A will retain Illingworth & Rodkin, Inc. to prepare a technical air quality analysis for the project in accordance with the most recent MBUAPCD and Caltrans Guidelines. The analysis contained in this section of the combined CEQA/NEPA document will incorporate the findings of the air quality analysis and provide additional supplemental analysis, as warranted. The analysis will describe the air quality setting of the area and assess potential air quality impacts.

### **Task 2.9 Farmland Conversion Impact Rating - Form AD 1006**

This task consists of the preparation of the United States Department of Agriculture "Farmland Conversion Impact Rating" (AD 1006) form and includes a summary of the results of early consultation with the Natural Resource Conservation Service (NRCS) and, as appropriate, State and local agriculture agencies where any of the four (4) specified types of farmland (Prime, Unique, Statewide or Local Important Farmland) could be directly or indirectly impacted by any alternative under consideration. As farmland will be impacted by the project, the analysis will include a map showing the location of all farmlands in the project impact area, discussion of the impacts of the various alternatives and identification measures to avoid or reduce the impacts. A copy of the form will be appended to the combined CEQA/NEPA document. Where the Land Evaluation and Site Assessment score (from Form AD

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1006) is 160 points or greater, the CEQA/NEPA document will include a discussion of alternatives to avoid farmland impacts. If avoidance is not possible, measures to minimize or reduce the impacts will be evaluated and, where appropriate, included in the proposed action.

### **TASK 3.0 PREPARATION OF THE COMBINED CEQA/NEPA DOCUMENT**

The RMA would be the CEQA lead agency and Caltrans would be the NEPA lead agency. DD&A shall prepare a combined CEQA/NEPA document, specifically, an IS/MND and Environmental Assessment/Finding of No Significant Impact (EA/FONSI) under CEQA and NEPA, respectively.

#### **Task 3.1 CEQA and NEPA Project and Alternative Descriptions**

DD&A will use information prepared in the existing certified CEQA document during preparation of the Conceptual Proposed Action for the project and will assist RMA with development of supplemental information required to prepare an IS/MND/EA/FONSI. As part of this task, DD&A will work with the technical consultants (Balance Hydrologics and Whitson Engineers) to complete the required maps, graphics, and figures needed to adequately define the project impact areas. DD&A intends to work collaboratively with the RMA and the technical consultants (Balance Hydrologics and Whitson Engineers) to develop the IS/MND/EA/FONSI Draft Project and Alternatives Description. DD&A will prepare an Administrative Draft Project and Alternatives Description and submit electronically to the project team (i.e., RMA, Caltrans, and technical subconsultants) for review and comment. This scope assumes one (1) round of comments from each of the members of the project team. Based on comments received, DD&A will revise the document and prepare a Draft Project and Alternatives Description for inclusion in the IS/MND/EA/FONSI.

#### **Task 3.2 Prepare 1st Administrative Draft CEQA/NEPA Document**

DD&A will prepare a Joint Administrative Draft IS/MND/EA/FONSI for the project in accordance with CEQA Guidelines, including §15120 through §15131, NEPA Regulations, and Caltrans and NEPA Guidelines. The document will describe the project and the existing environmental conditions. The impact analysis will apply specific thresholds for determining the significance of impacts, consistent with criteria set forth in CEQA/NEPA, County standards, and applicable case law. Impacts evaluated include direct, indirect, construction/short-term, operational/long-term, growth inducing, and irreversible. Feasible mitigation measures will be identified to avoid or reduce significant impacts to the extent possible or to compensate, if necessary. The alternatives section will include a description of the extensive range and breadth of alternatives that have been included in previous studies and a comparative analysis of up to three (3) alternative solutions to meet the overall project objectives, plus the No Project Alternative (which will not meet the project objectives). The alternatives selected for comparison will focus on feasible alternatives that can reduce those significant impacts in the document for which the effectiveness of mitigation cannot be confirmed with certainty.

DD&A will prepare the document, based on a field review, consultation with RMA and key agency staff, stakeholders, and the project technical team (including engineer), existing information in local sources

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and maps, background information in previously prepared environmental documentation, project-specific technical and design studies/recommendations, and DD&A's extensive library of resources and knowledge of the area. The tasks described below are those anticipated necessary to complete the CEQA and NEPA process based upon the methodology and assumptions above.

The document will be prepared concisely and to a level of detail necessary to assist the RMA and Caltrans in achieving the following ultimate actions:

- Issuance of a FONSI by Caltrans demonstrating compliance with NEPA, and
- Certification of an IS/MND and Adoption of a Mitigation Monitoring and Reporting Program (MMRP) by Monterey County demonstrating compliance with CEQA.

Key environmental topics are discussed individually below; these topics will be specifically addressed in the document, in addition to all other elements required by CEQA Guidelines Appendix G and NEPA Regulations. For each environmental topic, the document will include a discussion of existing conditions and will identify potential environmental impacts of the project using significance criteria (i.e., thresholds of significance) to determine the level of impact for each identified issue. The project impact section will present potentially significant impacts, and identify mitigation that avoids, eliminates, or reduces impacts to a less-than-significant level, where feasible.

- Aesthetics
- Air Quality
- Biological Resources
- Climate Change and Greenhouse Gas
- Cultural Resources
- Geology and Soils
- Hazardous Materials
- Hydrology/Water Quality
- Land Use/Consistency with Plans
- Recreation
- Noise
- Public Services/ Utilities
- Socioeconomic
- Environmental Justice
- Other Topics
- Cumulative and Irreversible and Irretrievable Commitment of Resources
- Alternatives Analysis

DD&A will submit up to five (5) hard copies of the 1<sup>st</sup> Administrative Draft Document to the RMA, as well as in electronic format.

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### **Task 3.3 Prepare 2nd Administrative Draft IS/MND/EA/FONSI**

After review of the 1st Administrative Draft IS/MND/EA/FONSI by the County, DD&A will respond, as necessary, and revise the document based on the comments received and prepare a 2nd Administrative Draft IS/MND/EA/FONSI. This scope assumes one round of comments from the County. The 2nd Administrative Draft IS/MND/EA/FONSI will then be provided electronically to Caltrans in their capacity as the federal lead agency for the Federal Highway Administration via their Local Assistance Program for Caltrans review and comment.<sup>1</sup>

### **Task 3.4 Prepare Screencheck and Public Review Draft IS/MND/EA/FONSI and Noticing**

Upon receipt of comments, DD&A will meet with the RMA and Caltrans to discuss the comments and appropriate incorporation into the IS/MND/EA/FONSI.<sup>2</sup> DD&A will then submit a Screencheck Draft (two hard copies as well as in electronic format in Microsoft Word and Adobe Acrobat format on CD), Draft Notice of Completion (NOC), and Draft Notice of Availability (NOA) to the RMA and the federal lead agency. After review of the Screencheck Draft and draft notices, DD&A will submit 15 copies of the Draft IS/MND/EA/FONSI and NOC to the State Clearinghouse for distribution for a 30-day public review period (per CEQA requirements), and provide Caltrans one original, unbound copy to comply with the federal lead agency's NEPA requirements for public distribution. In addition, DD&A will provide 30 copies (plus one unbound, camera ready copy) of the Draft IS/MND/EA/FONSI, NOC, and NOA to RMA for local distribution. This scope assumes that the distribution list, all public mailings, and posting of notification documentation will be conducted and paid for by the RMA. Additional copies beyond those identified above are not included in this scope of work.

### **Task 3.5 Respond to Public Comments and Prepare 1st Administrative Draft Final Document**

DD&A will respond to public comments received on the Draft IS/MND/EA/FONSI received during the 30-day review period. DD&A, in consultation with the RMA and the federal lead agency, will prepare formal responses to these comments. This scope of work assumes multiple project meetings and/or conference calls with the County and Caltrans to review public comments and develop appropriate responses. This document will consist of the following: 1) revisions to the IS/MND/EA/FONSI text, as necessary; 2) list of individuals and agencies commenting on the Draft IS/MND/EA/FONSI; 3) copies of letters received; and 4) written responses to comments received during the public review period. All

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<sup>1</sup> This scope and budget assumes that Caltrans will administer the federal lead agency role for the Federal Highway Administration via their Local Assistance Program and will require review of the Administrative Draft IS/MND/EA/FONSI for compliance with NEPA Regulations. Additional hard copies and CD copies that may be required by Caltrans or other federal or state agencies is unknown at this time and is not included in this scope or budget.

<sup>2</sup> This scope and budget includes incorporating comments, assuming that comments do not require substantial revisions or additional technical analysis. Substantial revisions are anticipated to be avoided by early coordination with the federal lead and other key agencies; however, DD&A cannot anticipate agency staffing changes, project description changes, or other changes in circumstances outside our control.

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public comments will be codified and responses will be provided. DD&A will provide five (5) hard copies of the 1st Administrative Draft Final IS/MND/EA/FONSI to the RMA and five (5) hard copies to the federal lead agency, along with electronic versions, for review and comment. This scope assumes Caltrans will prepare the FONSI as well as any required federal noticing as the federal lead agency.

DD&A reserves the right to review the public comments once available and submit a request for additional compensation should new issues arise outside the scope of work that require additional technical analysis, or should the anticipated number of comments or work required to complete the responses materially exceed the estimated work effort in the budget. If, during the course of the public comment period additional comments are received that identify new issues that are outside the original scope of work, DD&A will submit an Agreement amendment as necessary.

### **Task 3.6 Prepare 2nd Administrative Draft Final Document and Draft MMRP**

DD&A will respond and incorporate one single round of comments from the RMA and one single round of comments from Caltrans on the 1st Administrative Draft Final IS/MND/EA/FONSI and prepare the 2nd Administrative Draft Final IS/MND/EA/FONSI and Draft MMRP. The Draft MMRP will identify mitigation implementation and tracking responsibilities. The Draft MMRP will identify responsibility, timing, funding, and reporting of mitigation measures identified in the IS/MND/EA/FONSI. The 2nd Administrative Draft Final IS/MND/EA/FONSI and Draft MMRP will be submitted electronically to the RMA and Caltrans for review and comment.

### **Task 3.7 Prepare Screencheck Draft Final IS/MND/EA/FONSI, MMRP, and CEQA Findings**

DD&A will respond and incorporate one single round of comments from the RMA and one single round of comments from Caltrans on the 2nd Administrative Draft Final IS/MND/EA/FONSI and Draft MMRP prior to preparation of the Screencheck Draft Final IS/MND/EA/FONSI and Final MMRP. DD&A will submit the Screencheck Draft Final IS/MND/EA/FONSI and MMRP to the RMA and Caltrans for final comments prior to preparing the Final IS/MND/EA/FONSI and MMRP.

### **Task 3.8 Prepare Final IS/MND/EA/FONSI and MMRP and CEQA Findings**

Based on receipt of one round of comments from the RMA and Caltrans on the Screencheck Draft Final IS/MND/EA/FONSI and MMRP, DD&A will prepare and submit the Final IS/MND/EA/FONSI and MMRP to the RMA and Caltrans for certification and adoption. DD&A will provide ten (10) hard copies of the Final IS/MND/EA/FONSI and MMRP to the RMA and five (5) hard copies to the federal lead agency, as well as electronic versions.

As part of this task, DD&A will prepare materials for IS/MND/EA/FONSI certification and project approval, including: CEQA Findings, Statement of Overriding Considerations (if needed), and Notice of Determination (NOD). This scope of work assumes that RMA staff or legal counsel will be responsible for preparing all accompanying staff reports and resolutions. DD&A will provide a draft of the findings and associated material to the RMA and legal counsel for review and comment. All material will subsequently be revised based on comments. DD&A will prepare a draft and final NOD to be filed by the



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RMA with the County Clerk and State Clearinghouse. The attached budget does not include payment of filing fees, including the California Department of Fish and Wildlife (CDFW) fee required upon submittal of the NOD to the County Clerk. DD&A will submit an Agreement amendment for the filing fees, if necessary.

This scope of work assumes that Caltrans will be responsible for all federal noticing and processing beyond what is detailed in the tasks herein.

### **TASK 4.0 REGULATORY PERMITTING**

DD&A will contact agencies and organizations that have knowledge of local biological resources and jurisdiction over resources potentially affected by the project throughout the duration of the project to ensure agency concurrence at the time of final document preparation.

A number of supporting technical documents will be required as part of the permitting processes associated with the proposed restoration project. Numerous existing technical documents have been prepared in support of the proposed restoration project, and DD&A proposes that these documents be revised and finalized in a format that is acceptable to the resource agencies. DD&A will facilitate the preparation of final documents utilizing existing information and supplemented by additional information if necessary.

DD&A will informally consult with environmental regulatory agency representatives and prepare permit applications in signature-ready format. Upon the RMA's signature, DD&A will coordinate with the agencies to determine if the applications are complete, provide additional information, review project measures to avoid or minimize impacts, and identify additional permit conditions recommended for permit approval. The RMA will be responsible for agreeing to and finalizing the permit conditions, executing the permits, and paying permit application fees. It is assumed that Caltrans will administer the federal lead agency role for the Federal Highway Administration via their Local Assistance Program and would conduct Section 7 consultation with U.S. Fish and Wildlife Service (USFWS) and the National Oceanographic and Atmospheric Administration (NOAA). Applications will be prepared by DD&A for the following Regulatory Agencies:

- USACE Individual Section 404
- CDFW Streambed Alteration Agreement Fish and Game Code 1602
- Regional Water Quality Control Board (RWQCB) Section 401
- California Coastal Commission State Coastal Development Permit

### **TASK 5.0 PROJECT MANAGEMENT**

DD&A will provide project management services, including subconsultant administration and management, status progress reporting and tracking, schedule and budget monitoring and reporting, and County/agency coordination up to the total estimated budget provided.

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### TASK 6.0 MEETINGS

DD&A proposes the following conference calls and meetings for this scope of work. The DD&A Team has included attendance at the following meetings for the team:

- DD&A has included eight (8) meetings at the County offices and eight (8) total one-hour phone calls by up to two DD&A staff for each.

DD&A proposes the following conference calls and meetings specific to Task 4, Regulatory Permitting. The DD&A Team has included attendance at the following meetings for the team:

- DD&A has included four (4) meetings and four (4) total one-hour phone calls by up to two DD&A staff for each. Meeting locations may vary depending on the regulatory agency involved.

The attendance at additional meetings by DD&A will be billed on a time-and-materials basis. If the RMA desires that DD&A arrange for meetings, prepare presentations, agendas, meeting notices, and meeting summaries or minutes, those services will be outside the budget provided and DD&A will provide budget estimates for those additional out-of-scope services, separately.

Additional services not included in the scope (above), for the project cannot be provided until the additional work/cost is presented to the County and with the County's approval, amended into this Agreement. Once the amendment to the Agreement is fully executed, DD&A will be authorized to proceed with the additional services.

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### PAYMENT PROVISIONS

Invoices for services / work products / deliverables under the AGREEMENT shall be submitted when the work product is complete, shall identify the document or work product being delivered 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 Term: July 29, 2014 - June 30, 2016

Original Agreement Amount: \$256,769.25

This Invoice:	1.0		Project Initiation	\$14,227.00
	1.1	\$14,227.00	Project Initiation	
	2.0		Prepare NEPA Required Technical Studies	\$73,704.50
	2.1	\$10,769.50	Natural Environmental Study	
	2.2	\$8,063.75	Section 106 Documents	
	2.3	\$7,452.75	Biological Assessment	
	2.4	\$9,788.75	Scenic Resource Evaluation (SER) and Visual Impact Assessment Memorandum (VIA)	
	2.5	\$3,463.75	Paleontological Identification Report (PIR)	
	2.6	\$6,338.75	Initial Site Assessment (ISA) for Hazardous Waste	
	2.7	\$10,363.75	Noise Study Report (NSR)	
	2.8	\$14,388.75	Air Quality Study (AQS)	
	2.9	\$3,074.75	Farmland Conversion Impact Rating - Form AD 1006	
	3.0		Preparation of a Combined CEQA/NEPA Document	\$110,389.25
	3.1	\$12,982.75	CEQA and NEPA Project and Alternative Descriptions	
	3.2		Prepare 1 <sup>st</sup> Administrative Draft CEQA/NEPA Document	
		\$3,436.00	Introduction: Executive Summary	
		\$5,974.00	Affected Environment/Environmental Setting	
			Impacts and Mitigation Measures Sections	
		\$2,757.00	Aesthetics	
		\$2,477.00	Air Quality	
		\$8,126.00	Biological Resources	
		\$1,660.00	Climate Change and Greenhouse Gas Emissions	
		\$1,690.00	Cultural Resources	
		\$2,154.00	Geology and Soils	
		\$1,624.00	Hazards and Hazardous Materials	
		\$3,112.00	Hydrology/Water Quality	
		\$1,218.00	Land Use/Consistency with Plans/Recreation	

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		\$1,942.00	Recreation	
		\$2,118.00	Noise	
		\$1,802.00	Public Services and Utilities	
		\$1,854.00	Socioeconomics/Environmental Justice	
		\$3,852.00	Other Topics	
		\$2,352.00	Cumulative and Irreversible and Irretrievable Commitment of Resources	
		\$4,772.00	Alternatives Analysis	
3.3		\$13,052.75	Prepare 2 <sup>nd</sup> Administrative Draft IS/MND/EA/FONSI	
3.4		\$1,652.75	Prepare Screencheck and Public Review Draft IS/MND/EA/FONSI and Noticing	
3.5		\$10,596.75	Respond to Public Comments and Prepare 1 <sup>st</sup> Administrative Draft Final Document	
3.6		\$6,392.75	Prepare 2 <sup>nd</sup> Administrative Draft Final Document and Draft MMRP	
3.7		\$3,076.75	Prepare Screencheck Draft Final IS/MND/EA/FONSI, MMRP and CEQA Findings	
3.8		\$9,714.75	Prepare Final IS/MND/EA/FONSI and MMRP and CEQA Findings	
4.0			Regulatory Permitting	\$31,267.00
4.1		\$31,267.00	Permitting	
5.0			Project Management	\$10,293.00
5.1		\$10,293.00	Project Management	
6.0			Meetings	\$16,888.50
6.1		\$10,573.00	County Staff/Consultants Meetings (assumes 8 meetings and 8 conference calls)	
6.2		\$6,315.50	County Staff/Consultants Permitting Meetings (assumes 4 meetings and 4 conference calls)	
<b>Grand Total:</b>				<b>\$256,769.25</b>

Remaining Balance \$ \_\_\_\_\_

Approved as to Work/Payment:

John H. Ford, Planning Services Manager

Date \_\_\_\_\_

All Invoices Are To Be Sent To:

Diana Lemos, Account Clerk

County of Monterey Resource Management Agency - Finance Division

168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA 93901

Telephone: (831) 755-5220

### 2. Invoice Detail

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



## Monterey County

### Board Order

188 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.785.5088

**Agreement No.: A-12775**

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

- a. Approved Amendment No. 1 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc. to expand current tasks and to include the preparation of a Water Quality Assessment Report for completion of the Carmel River Floodplain Restoration and Environmental Enhancement Project in the Carmel Area Land Use Plan, in the amount of \$65,000 for a total amount not to exceed \$321,769, and extend the term to July 29, 2017; and
- b. Authorized the Contracts/Purchasing Officer or his designee to execute Amendment No. 1 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. (Amendment - REF140048/Denise Duffy & Associates for Carmel River Floodplain Restoration and Environmental Enhancement Project, in the Carmel Area Land Use Plan)

**PASSED AND ADOPTED** on this 1<sup>st</sup> day of September 2015, by the following vote, to wit:

**AYES:** Supervisors Armenta, Phillips, Salinas, Parker and Potter  
**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 78 for the meeting on September 1, 2015

Dated: September 3, 2015  
File ID: A 15-310

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

By Denise Hancock  
Deputy

**AMENDMENT NO. 1  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
DENISE DUFFY & ASSOCIATES, INC.**

**THIS AMENDMENT NO. 1** 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"); and

**WHEREAS**, the Parties wish to fully comply with Paragraph 12, Compliance with Terms of State or Federal Grant, of this Agreement by incorporating the State of California (hereinafter, "State"), The Natural Resources Agency, Department of Water Resources (hereinafter, "DWR") Agreement between the State DWR and Monterey County under The Flood Corridor Program as Exhibit B, SAP Contract No. 4600010665, into this Agreement by this reference; and

**WHEREAS**, the Grant Agreement requires compliance with the Monterey County Drug-Free Workplace Policy, attached as Exhibit C and incorporated into this Agreement by this reference; and

**WHEREAS**, County wishes to revise the Payment Provisions of Exhibit A of the Agreement to allow for monthly invoicing by the CONTRACTOR per Section B, Payment Provisions, of Exhibit A-1, Scope of Services/Payment Provisions, and to comply with the Grant Agreement provisions established by the DWR as outlined in Exhibit B of this Agreement; and

**WHEREAS**, due to unforeseen circumstances during the scoping of the Project and to meet the Department of Transportation (hereinafter, "Caltrans") documentation requirements, the Parties have identified a need to expand Task 1, Project Initiation, Task 2, Prepare NEPA Required Technical Studies, Task 5, Project Management, and Task 6, Meetings, of the original scope of work for the Project; and

**WHEREAS**, per Caltrans requirements, the Parties wish to include Task 2.10, Water Quality Assessment Report, to the original scope of work to complete the Project; and

**WHEREAS**, additional time and funding are necessary; and

WHEREAS, the Parties wish to amend the Agreement to extend the term to July 29, 2017 and increase the amount by \$65,000.00 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1.

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 and A-1 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 and A-1, 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 \$321,769.25.

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 July 29, 2017, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-1, Scope of Services/Payment Provisions", attached and incorporate by this reference, "Exhibit B, SAP Contract No. 4600010665", attached and incorporated by this reference, and "Exhibit C, Monterey County Drug-Free Workplace Policy", attached and incorporated by this reference.

5. All other terms and conditions of the Agreement remain unchanged and in full force.

6. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

7. The recitals to this Amendment No. 1 are incorporated into the Agreement and this Amendment No. 1.



IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR\*

By: *Rebecca Webb*  
Contracts/Purchasing Officer  
Deputy Purchasing Agent

Date: 9-11-15

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

By: *Denise Duffy*  
(Signature of Chair, President or Vice President)

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

Date: 8/13/15

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

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

Date: 8/13/15

Approved as to Form and Legality  
Office of the County Counsel

By: *Gregory J. Ford*  
Deputy County Counsel

Date: 8-20-15

Approved as to Fiscal Provisions

By: *[Signature]*  
Auditor/Controller

Date: 8-21-15

Approved as to Indemnity and Insurance Provisions

By: *[Signature]*  
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-1 - 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

This task was originally scoped and contracted to include two (2) meetings with Caltrans and key agencies. The communication, coordination and meetings required to facilitate the Federal lead agency role has dominated this effort. Fairly constant communication has occurred in addition to five (5) agency meetings. The effort increased significantly beyond that which was anticipated during initial scoping for this task.

An additional item identified under this task is identifying data and documentation needs. CONTRACTOR anticipated minimal coordination with Caltrans because a 2010 California Environmental Quality Act (CEQA) document for the Project exists, allowing for a relatively easy review of existing data and analysis. Caltrans has required a significant amount of document review through this process as they are sending each check-list section to multiple Caltrans department technicians for review. Each Caltrans' assigned staff have multiple questions and require that CONTRACTOR put in time to "bring them up to speed" on the Project.

CONTRACTOR has completed Task 1, but is \$20,000.00 over budget for this task.

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

CONTRACTOR has exhausted the approved budget for the Biological Assessment (BA) and for the Natural Environment Study (NES). During the initial scoping of the Project, it was not anticipated that Caltrans would be the Federal lead agency which has required additional effort to complete required Caltrans documentation for the entirety of the Project. As a result, the NES and BA must be prepared in Caltrans format and content requirements and must evaluate the restoration, in addition to the causeway for the Project.

CONTRACTOR has not yet completed this task and requests an additional \$8,023.00 for completion of Task 2.1, NES and \$5,986.00 for completion of Task 2.3, BA.

## **EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

Caltrans has reviewed the previous documentation for the Project and has directed CONTRACTOR to prepare a technical document not originally anticipated or included during the initial scoping of this Project.

CONTRACTOR will prepare a Water Quality Assessment Report at a cost of \$9,991.00 and identified as Task 2.10, Water Quality Assessment Report.

### **Task 3. Preparation of the Combined CEQA/NEPA Document**

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

### **Task 4. Regulatory Permitting**

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

### **Task 5. Project Management**

CONTRACTOR has used a disproportionate amount of the budget for this task in an effort to offset the significant out-of-scope work associated with Task 1, Project Initiation.

CONTRACTOR requests an additional \$7,000.00 to continue to provide environmental project management throughout the duration of the Project.

### **Task 6. Meetings**

CONTRACTOR has exhausted the internal meeting line-item component of the meeting budget for this task and is \$8,000.00 over budget. CONTRACTOR has participated in many meetings, including biweekly meetings, which were not anticipated or included in the initial scope and the Agreement budget for the Project.

CONTRACTOR requests an additional \$14,000.00 for the budget overage and to continue to actively participate in Project meetings through the duration of the Project.

## **B. PAYMENT PROVISIONS**

### **B.1 COMPENSATION/ PAYMENT**

County shall pay an amount not to exceed \$65,000.00, for a total amount not to exceed \$321,769.25 for the performance of all things necessary for or incidental to the performance of work as set forth in this Exhibit A-1, Scope of Services/Payment Provisions. CONTRACTOR'S compensation for services rendered shall be based on the attached Cost Estimate.

CONTRACTOR shall receive compensation for travel expenses as per the "County Travel Policy". A copy of the policy is available online at [www.co.monterey.ca.us/auditor/policies.htm](http://www.co.monterey.ca.us/auditor/policies.htm). To receive reimbursement,

## **EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

CONTRACTOR must 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 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 on the Contractor's monthly invoice.

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-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

[illegible]

Denise Duffy & Associates, Inc.  
Carmel River Floodplain Restoration and  
Environmental Enhancement Project  
RMA - Planning

## EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### PAYMENT PROVISIONS

Invoices for services / work products / deliverables under the 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 Term: July 29, 2014 – June 30, 2016

Original Agreement Amount: \$256,769.25

Amendment No. 1: \$65,000.00

Extension of Term to July 29, 2017

This Invoice:	1.0	Project Initiation	
		\$20,000.00	Additional Services Associated with Project Initiation
	2.0	Prepare NEPA Required Technical Studies	
		\$8,023.00	Task 2.1, Completion of Natural Environment Study
		\$5,986.00	Task 2.3, Completion of Biological Assessment
		\$9,991.00	Task 2.10, Completion of Water Quality Assessment Report
	3.0	Preparation of the Combined CEQA/NEPA Document	
		\$0.00	No increase
	4.0	Regulatory Permitting	
		\$0.00	No increase
	5.0	Project Management	
		\$7,000.00	Additional Services Associated with Project Management
	6.0	Meetings	
		\$14,000.00	Additional County Staff/Contractor Meetings
Grand Total:			\$65,000.00

Remaining Balance \$ \_\_\_\_\_

Approved as to Work/Payment: \_\_\_\_\_

*Melanie Beretti, RMA Service Manager*

\_\_\_\_\_ Date

All Invoices Are To Be Sent To:

Diana Lemos, Account Clerk

County of Monterey Resource Management Agency - Finance Division

168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA 93901

Telephone: (831) 755-5220

#### 2. Invoice Detail

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

STATE OF CALIFORNIA  
THE NATURAL RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES  
AGREEMENT BETWEEN THE STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES AND  
MONTEREY COUNTY  
UNDER THE FLOOD CORRIDOR PROGRAM

THIS AGREEMENT, made in quadruplicate and commencing this 13<sup>th</sup> day of June, 2014, is entered into by and between the Department of Water Resources of the State of California (hereinafter called the State, or DWR), and Monterey County, (hereinafter called the Grantee) for the Carmel River Floodplain Restoration and Environmental Enhancement Project.

The State and the Grantee agree as follows:

**SECTION 1 PURPOSE OF AGREEMENT**

This Agreement is made by and between the State and the Grantee to assist in financing a Flood Protection Project pursuant to the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Public Resources Code Section 5096.800 et seq, Division 5, Chapter 1.699, Article 4), specifically Public Resources Code 5096.825.

Grant funds may be used only as provided in this Agreement for such Eligible Project Costs as set forth in the Scope of Work and Budget, copies of which are incorporated herein by this reference and set forth in Exhibit B, Project Location, Exhibit C, Scope of Work, and Exhibit D, Budget, which describe tasks to be accomplished and costs associated with those tasks under this Agreement.

**SECTION 2 TERM OF AGREEMENT**

This Agreement shall remain in effect for four (4) years from the date of execution. The date of execution shall be the last date of the required signatures of the parties to the Agreement. Certain activities specified in this Agreement have a different term such as maintenance responsibilities of the grantee which continue in perpetuity and require annual reporting for five years after project completion.

**SECTION 3 PROJECT COSTS**

The Total Project Costs (identified in Exhibit D) are estimated to be \$16,137,800.

**SECTION 4 STATE GRANT**

Pursuant to the Disaster Preparedness and Flood Prevention Bond Act of 2006, and subject to the availability of funds, including any mandates from the Department of

## **EXHIBIT B - SAP CONTRACT NO. 4600010665**

SAP Contract No. 4600010665

Finance, the Pooled Money Investment Board, or any other State authority, the State will reimburse the Grantee, in accordance with the terms of this Agreement, an amount equal to the Grantee's eligible expenditures for this project not to exceed \$6,000,000.00, as the State Share, as identified in Exhibit D, Budget. The State will not make payments of any kind—advances or reimbursements—until funding is made available by the State Treasurer, after allocation decisions are made by the Pooled Money Investment Board and Department of Finance.

### **SECTION 5 GRANTEE'S COST SHARE AMOUNT**

The Grantee agrees to fund the difference, if any, between the actual Project Cost and the State Grant (Section 4). The total cost of the project will be paid for from a variety of sources including, the County cost of permitting and managing the project, the cost of the property, State and Federal Grants, and participation by the California Department of Transportation. The rate of payment of State grant funds expressed as a percentage share of the State Grant cannot exceed the rate of payment of expenses by the grantee expressed as a percentage of the grantee's share of project costs without prior State authorization. If the grant is cancelled for any reason, the Grantee's obligation to provide the required 10% local match remains in effect for all FCP funds expended to that point.

### **SECTION 6 INCORPORATION OF STANDARD TERMS AND GRANTEE COMMITMENTS**

In addition to Exhibits B, C, and D, this agreement by this reference incorporates Exhibit A, Standard Terms and Exhibit E, Planned Maintenance Activities. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations and statements made by the Grantee in the Application, documents, amendments and communications filed in support of its request for financing.

### **SECTION 7 METHOD OF PAYMENT**

The Grantee shall submit invoices on a quarterly basis for non-capital costs and on an as-needed basis for capital costs, not to exceed one invoice per month. All payments will be made to the Grantee upon receipt of an original invoice by the State of California, Department of Water Resources, 3484 El Camino Avenue, Room 200, Sacramento, California 95821, to the attention of David Wright, Project Manager for the State. Invoices should include SAP contract number and work plan element identification.

The Grantee shall meet all conditions for disbursement of money under this Agreement, including the provisions of the Conditions for Disbursement which is located in Exhibit A.



Failure by Grantee to comply may, at the option of the State, result in termination of the Agreement.

#### **SECTION 8 PROGRESS REPORTS AND STATEMENT OF COSTS**

The Grantee shall submit quarterly progress reports, starting with the end of the first complete calendar quarter after date of execution, describing the status of the Project and containing a Statement of Costs to the State. The submittal and approval by the State of these reports is a requirement for continued disbursement of State Grant funds. Progress reports shall summarize the work completed during the reporting period, include a statement of progress toward completion compared to the Project schedule, and provide a comparison of costs to date compared to the approved scope of work and Project budget. Additionally, if the grantee is aware of any anticipated problems, obstacles, or issues that could affect the project budget, schedule, or scope of work, they should be discussed in the progress reports.

#### **SECTION 9 FINAL REPORTS**

Upon project completion or termination, the Grantee shall submit a Final Report describing project activities and a report of expenditures (Final Financial Report) for the State's review and comment. The Final Report and Final Financial Report shall both be submitted within sixty (60) days of the project completion or termination. The Final Report shall describe the results of the project's activities, and include photographs of pre-project conditions and of the work completed. The Grantee shall also submit a Post-Completion Annual Report of Maintenance Activities annually for five years following completion of the project, with the first report due 12 months after the project completion date.

For any construction activity undertaken pursuant to and funded by this agreement, upon completion of the project the Grantee shall provide for a final inspection and a written certification by a California Registered Civil Engineer that the project has been completed in accordance with final plans and specifications and any modifications thereto. Such certification shall be submitted to the State with a copy of the final report of project expenditures required in the paragraph below. The Grantee shall keep on file, for the useful life of the project, as built plans and specifications for the project. Such documents shall be made available for inspection by the State upon reasonable notice.

The Final Financial Report documenting total project expenditures shall be submitted by the Grantee at the same time as the Final Report.

#### **SECTION 10 RELATIONSHIPS OF PARTIES**

The Grantee, its contractors, subcontractors, and their respective agents and employees required for performing any work under this Agreement shall act in an independent capacity and not as officers, employees, or agents of the State. Grantee is solely responsible for planning, design, construction, maintenance, and operation of the

## EXHIBIT B - SAP CONTRACT NO. 4600010665

SAP Contract No. 4600010665

activity undertaken pursuant to and funded by this agreement. Any review or approval by the State is solely for the purpose of proper administration of State funding and shall not be deemed to relieve or restrict Grantee's responsibility for its work.

### SECTION 11 PERMITS, LICENSES, APPROVALS AND LEGAL OBLIGATIONS

The Grantee shall be responsible for obtaining any and all permits, licenses and approvals required for performing any work under this Agreement, including those necessary for planning and implementing the Project. The Grantee shall be responsible for complying with all applicable federal, State and local laws, rules or regulations affecting any such work, specifically including, but not limited to, environmental, labor, procurement and safety laws, rules, regulations and ordinances.

Without limiting the foregoing, Grantee shall keep informed of and take all measures necessary to ensure compliance with the California Labor Code requirements, including but not limited to Section 1720 et seq. of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4), labor compliance programs (California Labor Code Section 1771.5), and payment of prevailing wages for work done under this funding agreement.

Work that is subject to the California Environmental Quality Act (CEQA) and funded under this Agreement shall not proceed until documents that satisfy the CEQA process are received by the State Project Manager and the State has completed its CEQA compliance. Work funded under this Agreement that is subject to a CEQA document shall not proceed until and unless approved by the State Project Manager. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. Once CEQA documentation has been completed, the State will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations or other mitigation.

### SECTION 12 GRANTEE'S RESPONSIBILITIES FOR WORK

The Grantee shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to bid disputes and payment disputes with the Grantee's contractors and subcontractors. The State will not mediate disputes between the Grantee and any other entity concerning responsibility for performance of work.

### SECTION 13 PROJECT OFFICIALS AND NOTICES

The State's Program Manager shall be the Chief, Division of Flood Management, Department of Water Resources. The State's Program Manager shall be the State's representative and shall have the authority to make determinations and findings with respect to each controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Funding Agreement. The State's Program Manager may delegate any task to the State's Project Manager.

EXHIBIT B - SAP CONTRACT NO. 4600010665

SAP Contract No. 4600010665

The Project Manager for the State is David Wright.

The Grantee's Program Manager shall be Benny Young, Director Monterey County Resource Management Agency. The Grantee's Program Manager shall be the Grantee's representative and shall have the authority to make determinations and findings with respect to each controversy arising under or in connection with the interpretation, performance, or payment of work performed under the Funding Agreement. The Grantee's Program Manager may delegate any task to the Grantee's Project Manager.

The Grantee Project Manager shall be John Ford, Management Analyst, Monterey County Resource Management Agency. The Grantee Project Manager shall be the Grantee's representative for the administration of the Agreement and shall have full authority to act on behalf of the Grantee, including authority to execute all payment requests. All communications given to the Project Manager shall be as binding as if given to the Grantee.

Either party may change its representative upon written notice to the other party. Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Funding Agreement shall be in writing to the Project Manager.

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

David Wright, P.E., Senior Engineer, Water Resources  
State of California  
Department of Water Resources  
Flood Corridor Program  
3484 El Camino Avenue, Suite 200  
Sacramento, CA 95821

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

Benny Young, Director  
Monterey County Resource Management Agency  
168 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

A change of address for delivery or notice may be made by either party by written notice of such change of address to the other party.

Notices may be sent by any of the following means: delivery in person, by certified U.S. Mail, postage prepaid, by "overnight" delivery service or, electronic transmission followed by submittal of a hard copy.

**SECTION 14 MAINTENANCE OF PROPERTY IMPROVED**

Grantee agrees to make provisions to insure that the property is used, managed, maintained, developed, rehabilitated, or restored with the grant funds provided in this Agreement consistent with the purposes of the program and is required to continue in perpetuity or until deemed no longer necessary by the State. Specific maintenance activities are outlined in Exhibit E, Planned Maintenance Activities. The Grantee or their successors may, with the approval of the State, transfer this responsibility to use, manage, and maintain the property as discussed in Exhibit A, Standard Terms; Easements.

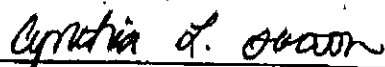
IN WITNESS HEREOF, the following authorized representatives have executed this Agreement as of the date first above written and approved as to Legal form and sufficiency.

**MONTEREY COUNTY**

By:   
Benny Young, Director Resource Management Agency

Date: 6/12/2014

Approved as to Legal Form and Sufficiency

By:   
Deputy County Counsel Cynthia L. Hasson

Date: 6-12-14

EXHIBIT B - SAP CONTRACT NO. 4600010665

SAP Contract No. 4600010665

STATE OF CALIFORNIA, DEPARTMENT OF WATER RESOURCES

By:   
Keith E. Swanson, Chief, Division of Flood Management

Date: 6/18/14

Approved as to Legal Form and Sufficiency

By:   
Robin E. Brewer, Assistant Chief Counsel

Date: 6-13-14

**EXHIBIT B – SAP CONTRACT NO. 4600010665**

SAP Contract No. 4600010665

**Attachments**

**List of Exhibits:**

**Exhibit A – Standard Terms**

**Exhibit B – Project Location**

**Exhibit C – Scope of Work**

**Exhibit D – Budget**

**Exhibit E – Planned Maintenance Activities**

**STANDARD TERMS**

**1. ACCOUNTING AND DEPOSIT OF GRANT DISBURSEMENT:**

- a) Separate Accounting of State Grant Disbursements and Interest Records: The Grantee shall account for the money disbursed pursuant to this Agreement separately from all other Grantee's funds. The Grantee shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. The Grantee shall keep complete and accurate records of all receipts, disbursements, and interest earned on expenditures of such funds. The Grantee shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the State at any and all reasonable times.
- b) Disposition of Money Disbursed: All money disbursed pursuant to this Agreement shall be deposited, administered, and accounted for pursuant to the provisions of applicable law.
- c) Remittance of Unexpended Funds: The Grantee, within a period of sixty (60) days from the final disbursement from the State to the Grantee of State Grant funds, shall remit to the State any unexpended funds that were disbursed to the Grantee under this Agreement and were not needed to pay Eligible Project Costs.
- d) Interim and Final Audits: The State reserves the right to conduct an audit at any time between the execution of this Agreement and the completion of the Project, with the costs of such audit borne by the State. After completion of the Project, the State may require the Grantee to conduct a final audit, at the State's expense.

Pursuant to Government Code Section 8546.7, the contracting parties shall be subject to the examination and audit of the State for a period of five (5) years after project completion. All Grantee's records and those of the Grantee's subcontractors related to this Agreement shall be retained for at least five (5) years after Project completion.

- 2. **ACKNOWLEDGEMENT OF CREDIT:** The Grantee shall include appropriate acknowledgement of credit to the State and to all cost-sharing partners for their support when promoting the Project, erecting signs at the project site, or using any data and/or information developed under the Agreement.
- 3. **AMENDMENT:** This Agreement may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in

EXHIBIT B - SAP CONTRACT NO. 4600010665

EXHIBIT A  
SAP Contract No. 4600010665

any way contrary to applicable law. Requests by the Grantee for amendments must be in writing stating the amendment request and the reason for the request.

4. **AMERICANS WITH DISABILITIES ACT:** By signing this Agreement, Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
5. **ANTITRUST CLAIMS:** Grantee shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in Grantee's contracts with other entities for acquisition of goods, and services and construction of public works with funds provided by the State under this Agreement.
6. **APPROVAL:** This Agreement is of no force or effect until signed by all parties to the agreement. Grantee may not submit invoices or receive payment until has all required signatures have been obtained.
7. **AVAILABILITY OF FUNDS:** Work to be performed under this Agreement is subject to availability of funds through the State's normal budget process.
8. **CALIFORNIA CONSERVATION CORPS:** As required in Water Code Section 79038(b), Grantee shall examine the feasibility of using the California Conservation Corps or community conservation corps to accomplish the habitat restoration, enhancement and protection activities listed in the Scope of Work (Exhibit C), and shall use the services of one of these organizations whenever feasible.
9. **CLAIMS DISPUTE:** Any claim that the Grantee may have regarding the performance of this agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Project Manager, Department of Water Resources, within thirty (30) days of the Grantee's knowledge of the claim. Project Manager and Grantee shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.
10. **COMPETITIVE BIDDING AND PROCUREMENTS:** Grantee shall comply with all applicable laws and regulations securing competitive bids and undertaking competitive negotiations in Funding Recipient's contracts with other entities for acquisition of goods and services and construction of public works with funds provided by State under this Funding Agreement.



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11. **CONDITIONS FOR DISBURSEMENT:** The State shall have no obligation to disburse money under this Agreement unless and until the Grantee has satisfied the State that the disbursement is in accordance with the requirements of the legislation creating the funding source for the grant funds. Before engaging in site modifications to be paid for from State funds, the Grantee must complete the following:

- a) For Construction Projects, the Grantee must submit to the State, final plans and specifications certified by a California Registered Civil Engineer or equivalent documentation as to compliance with the approved Project.
- b) The Grantee must submit a written statement by an authorized representative that it has obtained all necessary permits, easements, rights-of-way and approvals as may be required by other State, federal, and/or local agencies, as specified in Section 11 of this Agreement.
- c) The Grantee must demonstrate compliance with the California Environmental Quality Act and if applicable the National Environmental Policy Act by submitting copies of any environmental documents, including environmental impact reports, environmental impact statements, negative declarations, mitigation agreements, legal notices and environmental permits as may be required prior to modifying the Project site.
- d) The Grantee must demonstrate continuing availability of sufficient funds to complete the Project.
- e) The Grantee shall develop, and submit for State approval, a plan to minimize the impacts to adjacent landowners (California Water Code Section 79041, Division 26, Chapter 5, Article 2.5). This plan may require completion of a hydrologic and hydraulic study, and if so the specifications will be included in Exhibit C, the project Scope of Work.

12. **CONFLICT OF INTEREST:**

- a) Current State Employees:  
No state officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

No state officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

- b) Former State Employees:

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For the two year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.

For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the twelve-month period prior to his or her leaving state service.

c) City/County/Non Profit Employees:

No employee, officer, employer or agency of the City/County/Non Profit shall participate in the selection or in the award or administration of a contract supported by State Funds if a conflict of interest, real or apparent, would be involved. The City/County/Non Profit shall comply with all applicable laws on conflict of interest including, but not limited to the following: Public Contract Code (PCC) Sections 10335.5 et seq., PCC Sections 10365.5 et seq., PCC Sections 10410 et seq., and Government Code Sections 1090 et seq., and 8100 et seq.

13. **DRUG-FREE WORKPLACE CERTIFICATION:** By signing this contract, the Grantee hereby certifies under penalty of perjury under the laws of the State of California that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees, contractors and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors or subcontractors for violations.
- b) Establish a Drug-Free Awareness Program to inform employees, contractors and subcontractors about all of the following:
  - 1. The dangers of drug abuse in the workplace,
  - 2. The Grantee's policy of maintaining a drug-free workplace,
  - 3. Any available counseling, rehabilitation and employee assistance programs, and
  - 4. Penalties that may be imposed upon employees, contractors or subcontractors for drug abuse violations.
- c) Every employee, contractor and subcontractor who works under this Agreement:

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1. Will receive a copy of the Grantee's drug-free policy statement, and
  2. Will agree to abide by terms of the Grantee's statement as a condition of employment, contract, or subcontract.
14. **EASEMENTS:** Where the Grantee acquires property in fee title or funds improvements to property already owned in fee by the Grantee using grant funds provided through this Agreement, or proposes that property be conserved as open space and such conserved property is used in determining the benefits score for the project, an appropriate easement or other title restriction providing for floodplain preservation and agricultural and/or wildlife habitat conservation for the subject property in perpetuity, approved by the State, shall be conveyed to a regulatory or trustee agency or conservation group acceptable to the State. Any easement or other title restriction applied to any portion of the project area as part of the project must be in first position ahead of any recorded mortgage or lien on the property unless this requirement is waived by the State.
- Where the Grantee acquires an easement under this Agreement, the Grantee agrees to monitor and enforce the terms of the easement, unless the easement is subsequently transferred to another land management or conservation organization or entity with State permission, at which time monitoring and enforcement responsibilities will transfer to new easement owner.
- Failure to provide an easement acceptable to the State can result in termination of this Agreement.
15. **ELIGIBLE PROJECT COSTS:** Grantee shall apply State Grant funds received only to eligible project costs, as identified in Exhibit D - Budget.
16. **GOVERNING LAW:** This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
17. **INDEMNIFICATION:** Grantee shall indemnify and hold and save the State, its officers, agents, and employees, free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of the Project and this Agreement, including, but not limited to any claims or damages arising from the planning, design, construction, maintenance and/or operation of levee rehabilitation measures for this Project and any breach of this Agreement. Grantee shall require its contractors to name the State, its officers, agents, and employees as additional insureds on their liability insurance for activities undertaken pursuant to this Agreement.
18. **INSPECTIONS OF PROJECT BY STATE:** The State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Agreement. This right shall extend to any subcontracts, and the

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Grantee shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Agreement with the State.

19. **INSPECTIONS OF BOOKS, RECORDS AND REPORTS:** During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Funding Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Funding Agreement. Failure or refusal by Grantee to comply with this provision shall be considered a breach of this Funding Agreement, and the State may withhold disbursements to Grantee or take any other action it deems necessary to protect its interests as provided in the Funding Agreement.
20. **LABOR COMPLIANCE PLAN:** Prior to awarding a contract for public works projects funded in whole or in part from Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, or any other source of funding so requiring, the Grantee shall comply with Public Resources Code Section 75075, which requires adoption and enforcement of a labor compliance program pursuant to subdivision (b) of Labor Code Section 1771.5 for application to the funded public works project. At the State's request, Grantee must promptly submit written evidence of its compliance with Labor Compliance Program requirements.
21. **NONDISCRIMINATION:** During the performance of this Agreement, the Grantee, its contractors, and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Govt. Code § 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et. seq.). The applicable regulations of the Fair Employment and Housing Commission Implementing Government Code § 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Funding Agreement.

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22. **PROHIBITION AGAINST DISPOSAL OF PROPERTY WITHOUT STATE PERMISSION:** The Grantee shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project, without prior permission of the State. The Grantee shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of the Grantee to meet its obligations under this Agreement, without prior written permission of the State. The State may require that the proceeds from the disposition of any real or personal property be remitted to the State, up to the value of the State funds disbursed to the Grantee for improvements to the property under this Agreement.
23. **REIMBURSEMENT CLAUSE:** If applicable, travel and per diem expenses to be reimbursed under this contract shall be the same rates the State provides for unrepresented employees in accordance with the provisions of Title 2, Chapter 3, of the California Code of Regulations.
24. **SEVERABILITY:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
25. **SUCCESSOR AND ASSIGNS:** This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto. No assignment or transfer of this Agreement or any part thereof, rights hereunder, or interest herein by the Grantee shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.
26. **TERMINATION WITHOUT CAUSE:** The State may terminate this Agreement without cause on thirty (30) days advance written notice. The Grantee shall be reimbursed for all reasonable expenses incurred up to the date of termination.
27. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided including but not limited to reasons of default under Standard Term 28 - Termination By Grantee.
28. **TERMINATION BY GRANTEE:** Subject to State approval which may be reasonably withheld, Grantee may terminate this Agreement and be relieved of contractual obligations. In doing so, Grantee must provide a reason(s) for termination. Grantee must submit all progress reports summarizing accomplishments up until termination date. If the grant is cancelled, the Grantee obligation to provide the required 10% local funding remains in effect

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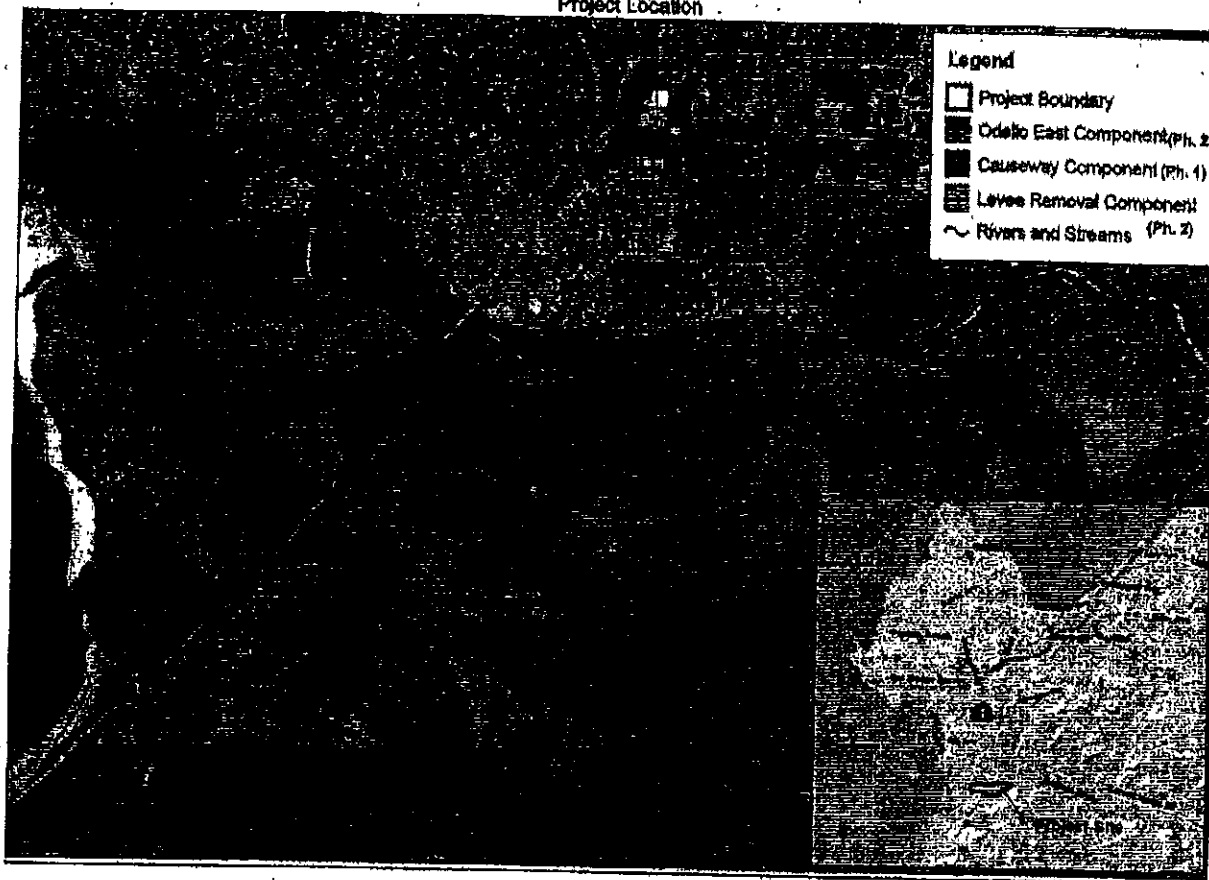
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for all Flood Corridor Program funds expended to that point.

29. **THIRD PARTY BENEFICIARIES:** The parties to this Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or any duty, covenant, obligation or understanding established herein.
30. **TIMELINESS:** Time is of the essence in this Agreement.
31. **WITHHOLDING OF GRANT FUNDS BY STATE:**
- a) **Withholding Clause:** The State, at its discretion, may withhold ten percent (10%) of the funds requested by the Grantee for reimbursement of Eligible Project Costs until applicable milestones are completed or until the Project is completed and Final Report is received. Withheld funds may be released upon completion of milestones identified in Exhibit C, the project Scope of Work.
  - b) **Additional Conditions for Withholding:** If the State determines that the Project is not being completed substantially in accordance with the provisions of this Agreement or that the Grantee has failed in any other respect to comply substantially with the provisions of this Agreement, and if the Grantee does not remedy any such failure to the State's satisfaction, the State may withhold from the Grantee all or any portion of the State Grant commitment and take any other action that it deems necessary to protect its interests.
32. **WORKERS' COMPENSATION:** The Grantee affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self insurance in accordance with the provisions of that code, and the Grantee affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.

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Carmel River Floodplain Restoration and Environmental Enhancement Project  
Project Location



## SCOPE OF WORK

### MONTEREY COUNTY Carmel River Floodplain Restoration and Environmental Enhancement Project

#### I. Project Goals and Objectives

The Carmel River Floodplain Restoration and Environmental Enhancement Project (Project) is a multi-objective project that combines flood protection, wildlife corridor and habitat enhancement, agricultural land protection, storm water detention, and public recreation on a 130-acre site in the lower Carmel River floodplain.

##### Project Objectives

- A. Reduce Flood Flows in Urban Areas: County Services Area 50 (CSA-50) is a developed area located along the north side of the lower Carmel River and includes the highest number of repetitive loss properties in Monterey County. Of the 147 acres of developed land in CSA-50, approximately 105 acres flood during the 50-year flood event and all 147 acres flood during the 100-year event. The Project will reconnect the historic floodplain on the south side of the River, by removal of levees and excavation of material in the floodplain. This expanded floodplain will receive the floodwaters moving water away from the developed areas of the floodplain and reduce the water surface elevations by an estimated 0.5-1.0 foot during a 100-year storm event. This is expected to reduce potential liabilities for flood damage costs for up to 50 repetitive loss structures in Monterey County and reduce the number of structures needing coverage under the federal Flood Insurance Program.
- B. Increase Riparian and Wetland Habitat: The Project will restore approximately 90 acres of riparian and wetland habitat in the historic floodplain, providing increased habitat acreage for sensitive species including steelhead trout, California red-legged frog, and western pond turtle, as well as six additional state species of concern. The project will provide increased quantity and quality of breeding and/or foraging habitat for 27 avian species that have been identified by one or more bird conservation plans as species of concern.
- C. Provide Habitat Connection Across the Floodplain: The Project includes a flood conveyance by-pass or causeway under Highway 1. This causeway will be sized such that large animals can migrate between the open space area connecting to the Carmel Lagoon on the west with the recreated wetlands on the east side of Highway 1. This will provide a connection under Highway 1 for wildlife species utilizing over 25,000 acres of protected habitat areas in the immediate project vicinity.
- D. Protect Agricultural Land from Flooding: The Project will establish a permanent 36-acre organic farm above the level of the 100-year floodplain. The material removed



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from the reconstituted floodplain will be used to fill the farm land to the south. The resulting farm land would then not be subject to inundation in a flood event.

- E. Improve Water Quality: The Project will provide additional filtration for sediment and nutrients through the creation of a functioning floodplain and associated riparian habitat and wetlands, resulting in improved water quality in the surface and groundwater flows entering the Carmel River Lagoon, the Carmel Bay (State-designated Area of Special Biological Significance, Marine Protected Area, and Critical Coastal Area) and the Monterey Bay National Marine Sanctuary.
- F. Recharge Groundwater and Base Flows to the Carmel River: The Project will address one of the watershed's most critical environmental concerns - very low or no flow in the Lower Carmel River and Carmel Lagoon during the dry season. The restored floodplain will expose storm water to a greater surface area which will provide for a greater degree of water infiltration to the aquifer. Groundwater monitoring wells established on the project site in 2009 documented that groundwater recharge from the Carmel River establishes a base level in the aquifer underlying the Project site. Sedimentary interbedding on the floodplain provide additional capacity for infiltration and recharge to the aquifer above this base level. Due to these conditions, opportunities exist on the parcel to enhance groundwater recharge.
- G. Public Trails and Recreation: The Project will include a public trail along the southern edge of the farm field and will link to over 5000 acres of public land (Palo Corona Regional Park) immediately adjacent to the project site.

## II. Project Description

The project consists of two interrelated phases. Each phase is an integral component of the overall project, but they are differentiated because each has a set of constraints which may result in one phase moving along faster than the other phase. The phases are described as follows:

### Phase One - Causeway

Phase One includes reconstruction of Highway 1 south of the Carmel River Bridge including a 520-foot long flood by-pass or conveyance causeway under State Route 1 and contouring the embankments along the Highway consistent with current California Department of Transportation standards. The causeway will allow floodwaters from the Carmel River to flow into the south branch of the Carmel River channel which was dammed with installation of State Route 1. Excess material taken from the road bed for the causeway will be placed in the "fill" area for the agricultural preserve.

### Phase Two - Levee Removal, Agricultural Preserve, Restoration of Floodplain Habitat

Phase Two will include: removal of approximately 2,400 linear feet of the levee along the south side of the Carmel River, grading of approximately 55 acres of existing farmland to create restored floodplain habitat and filling approximately 36 acres of land to create an agricultural preserve above the 100-year floodplain. The grading on the existing 55 acres of farmland area will result in 36 acres of farmland above the 100 year floodplain, and 19 acres

of land restored to floodplain. The floodplain restoration grading will be designed for the re-establishment of riparian vegetation and grading for a public trail. The soil excavated from the levee removal and floodplain restoration will be used to fill the new agricultural preserve area. The ability to retain fill material on site will result in significant cost savings. Upon completion of grading, the restored floodplain will be planted with native species and invasive species control will occur as part of the restoration plan.

### III. Tasks and Deliverables

Subtasks in bold indicate project elements funded under this Agreement.

#### **Task 1: Administration**

##### **Subtask 1.1 Quarterly Progress Reports**

Progress reports will be submitted to DWR on a quarterly basis in accordance with Section 8 of this Agreement.

- Deliverable: Quarterly Progress Reports

##### **Subtask 1.2 Final Report**

The final report will be submitted in accordance with Section 9 of this Agreement. It will include a description of results of project activities, as well as photographs of pre-project conditions and work completed.

- Deliverable: Final Report

##### **Subtask 1.3 Written Certification by California Registered Civil Engineer**

Per Section 9 of this Agreement, the completed construction will be inspected and written certification of conformance with final approved contract documents, including project plans and specifications will be provided by a registered Civil Engineer.

- Deliverable: Wet-stamped certification by a registered Civil Engineer on final record drawings and appropriate contract documents.

##### **Subtask 1.4 Final Financial Report**

The final financial report will be submitted in accordance with Section 9 of this Agreement. It will be submitted concurrently with the final report.

- Deliverable: Final Financial Report

##### **Subtask 1.5 Post Completion Reports**

This subtask includes the delivery of an annual report of maintenance activities on an annual basis in accordance with Section 9 of this Agreement and Exhibit E: Planned Maintenance Activities.

- Deliverable: Annual Maintenance Summary Report

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### Task 2: Design

#### Subtask 2.1 Causeway Design

This subtask includes work associated with advancing the design of the causeway. This work includes updates to the Hydrologic and Hydraulic Study.

- Deliverable: Updated Hydrologic and Hydraulic Study

#### Subtask 2.2 Project Study Report for Caltrans

#### Subtask 2.3 Restoration Plan

A restoration plan including planting ratios, success criteria for monitoring, and a monitoring plan will be developed as part of this subtask.

- Deliverable: Final Restoration Plan

#### Subtask 2.4 Finalize Plans

#### Subtask 2.5 Prepare Stormwater Pollution Prevention Plan (SWPPP)

This subtask includes preparation of a Storm Water Pollution Prevention Program in accordance with State and Federal requirements to protect water quality during construction and implementation of the project.

- Deliverable: SWPPP

#### Subtask 2.6 Construction Staking, Management, and Testing

This subtask includes construction staking services performed under the direction of a licensed Land Surveyor, project management, and soils testing.

- Deliverable: Completed Highway 1 Plans, Restoration Plans, and SWPPP.

### Task 3: Property Acquisition

#### Subtask 3.1 Acquisition of Easements for construction of Causeway.

#### Subtask 3.2 Property Tenure/Acquisition

- Deliverables: Phase 1: Construction Easements, Phase 2: Property Title.

### Task 4: Permitting and Environmental Review

#### Subtask 4.1 Preparation and Public Review of Negative Declaration

A subsequent Initial Study and Mitigated Negative Declaration/Environmental Assessment or Finding of No Significant Impact will be prepared to address the work within the Caltrans Right of Way. The County of Monterey will function as Lead agency for the CEQA document and Caltrans will coordinate the NEPA document.

- Deliverable: Mitigated Negative Declaration and public comment letters

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- Subtask 4.2 Coastal Development Permit from California Coastal Commission**
- Deliverable: Coastal Development Permit
- Subtask 4.3 Encroachment Permit**
- Deliverable: Encroachment Permit from California Department of Transportation
- Subtask 4.4 Section 401 National Pollutant Discharge Elimination Systems (NPDES) Permit**
- Deliverable: Section 401 NPDES Permit from Central Coast Regional Water Quality Control Board
- Subtask 4.5 Section 404 Permit**
- Deliverable: Clean Water Act Section 404 Permit
- Subtask 4.6 Streambed Alteration Agreement**
- Deliverable: Section 1603 Streambed Alteration Agreement from California Department of Fish and Wildlife
- Subtask 4.7 Section 4(f) Compliance with US Department of Transportation**
- Deliverable: Documentation of compliance.

### Task 5: Project Implementation

#### **Subtask 5.1: Project Administration**

This subtask includes cost associated with administration of the project implementation and grant administration, including staff labor and project-related overhead costs. In addition, a Plan to Minimize Impacts to Adjacent Landowners will be drafted and submitted to the satisfaction of DWR in accordance with Water Code Section 79041.

- Deliverable: Invoices, Labor charges, overhead costs, receipts, and backup documentation.
- Deliverable: Plan to Minimize Impacts to Adjacent Landowners

#### **Subtask 5.2: Contractor Procurement**

##### **5.2.1: Bidding Period**

- Send out Request for Proposals
- Pre-bid meeting
- Answer questions from prospective contractors

##### **5.2.2 Bid opening and contract award**

- Receive Proposals and bids

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- Evaluate proposals
- Negotiate final contract

**5.2.3 Notice to proceed**

- Issue notice to proceed

**Subtask 5.3: Construction Activities**

- Deliverables: Project status reports

**5.3.1 Existing Utility Removal and Replacement**

This task involves the removal and temporary relocation of existing overhead utilities along Highway 1. The utilities along Highway 1 will be installed underground as part of the causeway improvements.

**5.3.2 Temporary Detour Construction**

This subtask includes construction of a temporary detour on east side of State Route 1.

**5.3.3 Embankment Removal and Causeway Construction**

Remove and replace existing State Route 1 to include new slope embankments and a new 520-foot long causeway under State Route 1. Remove temporary detour and restore topography.

**5.3.4 Utility removal Along Existing Levee**

This task involves the removal and relocation of existing overhead utilities along the Levee along the south side of the Carmel River. The utilities along Highway 1 will be installed underground as part of the causeway improvements.

**5.3.5 Levee and Debris Removal**

Removal of approximately 2,400 feet of existing levee and debris along the south side of the Carmel River and placement of fill in an area designated to be organic farmland elevated out of the floodplain.

**5.3.6 Initial Grading**

This subtask includes the grading and re-contouring of the east edge of the Odello property to allow flood flows to access the floodplain via the south bank of the Carmel River.

**5.3.7 Finish Grading**

This subtask includes activities to restore area within restored floodplain to support a riparian environment and creation of agricultural preserve area outside of the floodplain. It includes top soil installation.

**5.3.8 Planting of Vegetation (Seeding)**

This subtask includes planting of vegetation in the floodplain area. Application methods include hydro seeding.

**5.3.9 Construction Biological Monitoring**

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This subtask includes the biologist being on site to conduct pre-construction surveys, and ongoing site monitoring as required by the Mitigation Measures contained in the CEQA/NEPA document. The Biologist will provide reports of their findings and recommendations in the event that unexpected biological resources are potentially impacted.

**5.3.10 Storm Water Pollution Prevention Program**

This subtask includes implementation of a Storm Water Pollution Prevention Program to protect water quality during construction and during implementation of the project.

Subtask 5.4 Notice of Completion

**Task 6: Construction Implementation**

Subtask 6.1 As-Built Engineering Documentation

- Deliverable: As-Built Engineering Documentation (Plans and Specifications)

Subtask 6.2 Post Construction Mitigation Monitoring

Maintenance and monitoring will be conducted in accordance with Section 9 of this Agreement and Exhibit E: Planned maintenance activities.

- Deliverable: Annual Maintenance Summary Report

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#### IV. . Schedule

EXHIBIT C  
NSA Contract No. 48-0000-10000

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EXHIBIT C  
BAP Document No. 4000-11005

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## V. Benefits

### Flood Benefits

The Lower Carmel River Floodplain Restoration and Enhancement Project will be completed on the 130-acre historic floodplain located just upstream of the Carmel River Lagoon and east of Highway One on land known as the Odello fields. The land is part of the historic floodplain along the Carmel River but has not been available for a typical flooding regime for almost 100 years due to agricultural production on the land. In the early 1900s, earthen levees were built on the south side of the river by the farmer-landowner to constrain the river and the entire expanse of wetlands and riparian forest surrounding the Carmel River Lagoon and Odello East was put into agricultural production for artichokes. Downstream of the present day Highway One, the levee and agricultural production narrowed the riparian forest and wetlands on the south side of the river for nearly 1/2-mile at their widest to a narrow strip along the river. Upstream of Highway One, the riparian forest on the south side of the main stem was reduced from a maximum of about 1400 feet wide to a narrow strip.

The levees kept flood events out of the fields except during larger flows (10-year storms and larger), which spread into the floodplain and caused damages to residential and commercial properties. The existing levees are not adequate to hold the 1% annual chance flood.<sup>1</sup> The construction of Highway One in the early 1930s further diminished the ecological condition of the entire coastal ecosystem by placing a physical barrier between the Carmel River Lagoon and the larger floodplain thereby preventing hydrologic connectivity across the floodplain. Highway One created a north-south barrier to flood flows as well, resulting in flood waters flowing to the north side of the river, which affects areas such as Mission Fields, the Crossroads Shopping Center and Rio Road/Val Verde Road. Today the lower Carmel River is confined by levees on both sides, beginning near the river's mouth and running 1.2 miles upstream.<sup>2</sup> Recent major floods include January and March 1995 events and the February 1998 event. These events resulted in approximately \$10,520,000 (2009 dollars) in damages and affected 220 residences and the Highway One Bridge over the river had to be completely replaced.

The project focuses on restoring a more frequent flooding regimen to 90-acres of the Odello East property and provides a flood conveyance by-pass or causeway to both reconnect the west and east sides of the floodplain hydrologically and for habitat connectivity and wildlife movement. The remaining 36 acres of the Odello property will be retained as an agricultural preserve with an organic farming operation and native plant nursery with public access. The ecological goals of the project are to restore connectivity, increase riparian and wetland habitat and natural ecological function to a critical section of the Carmel River watershed. The flood benefit goal of the project is to reduce flood damages to the north overbank areas which historically have sustained damages and are repetitive loss properties.

The project is subsequent to a series of habitat conservation and restoration activities occurring in the lower floodplain and lagoon since the 1990s including the Carmel River Lagoon Riparian

<sup>1</sup>Monterey County Water Resources Agency, Monterey County Flood Management Plan, pp. 20, Update 2002. Prepared for Monterey County.

<sup>2</sup>Balance Hydrologics, Inc., 2007. Design Alternatives Analysis for Floodplain Restoration at the Odello Property.

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Restoration Project completed in 2000 and the Carmel River Lagoon South Arm Restoration Project completed in 2004. Both of these projects were completed by California State Parks in partnership with the State Department of Transportation and the Big Sur Land Trust. Partners in this Project include California State Parks, Coastal Conservancy, Monterey County Water Resources Agency, Monterey County Public Works, Monterey Peninsula Water Management District and the Big Sur Land Trust.

**Wildlife and/or Agricultural Benefits**

The key wildlife objectives associated with this project are to restore important habitat for several wildlife species by establishing the type of vegetation typical of river corridor environments and to provide a more dense and diverse riparian corridor. This would create important habitat for sensitive species including California red-legged frogs and western pond turtles. In addition the project will increase flow conveyance and habitat connectivity between the project site and the Carmel River Lagoon benefiting habitat for the south/central California Coast Steelhead.

The project will also maintain an active organic agricultural operation on a portion of the Project site in order to preserve historically important agricultural operations.

EXHIBIT B- SAP CONTRACT NO. 4600010665

EXHIBIT D  
SAP Contract No. 4600010665

BUDGET

MONTEREY COUNTY

CARMEL RIVER FLOODPLAIN RESTORATION AND ENVIRONMENTAL ENHANCEMENT PROJECT

Task	DWR Funds (Phase 1)	DWR Funds (Phase 2)	DWR Funds (Total)	Monterey County Funds	Other Grant Funds	Total
1.1 Quarterly Progress Reports	\$1,000	\$1,000	\$2,000			\$2,000
1.2 Final Report	\$750	\$750	\$1,500			\$1,500
1.3 Written Certification	\$250	\$250	\$500			\$500
1.4 Final Financial Report	\$250	\$250	\$500			\$500
1.5 Post Completion Reports	\$250	\$250	\$500			\$500
2.1 Causeway Design					\$1,000,000	\$1,000,000
2.2 Project Study Report						
2.3 Restoration Plan		\$200,000	\$200,000			\$200,000
2.4 Finalize Plans						
2.5 SWPPP Preparation	\$25,000	\$25,000	\$50,000		\$100,000	\$150,000
2.6 Construction Staking, Management, and Testing	\$222,200		\$222,200		\$727,800	\$950,000

# EXHIBIT B - SAP CONTRACT NO. 4600010665

EXHIBIT D  
SAP Contract No. 4600010665

Task	DWR Funds (Phase 1)	DWR Funds (Phase 2)	DWR Funds (Total)	Monterey County Funds	Other Grant Funds	Total
3.1 Acquisition of Easements						
3.2 Property/Tenure				\$1,810,000		\$1,810,000
4.1 Preparation and Public Review of Negative Declaration	\$137,800	\$85,000	\$232,800			\$232,800
4.2 Coastal Development Permit	\$5,000		\$5,000			\$5,000
4.3 Encroachment Permit	\$5,000		\$5,000			\$5,000
4.4 Section 401 (NPDES) Permit	\$5,000		\$5,000			\$5,000
4.5 Section 404 Permit	\$5,000		\$5,000			\$5,000
4.6 Streambed Alteration Agreement		\$5,000	\$5,000			\$5,000
4.7 Section 4(f) Compliance with State Parks						
5.1 Project Administration	\$25,000	\$25,000	\$50,000		\$190,000	240,000
5.2 Contractor Procurement						
5.2.1 Bidding Period						
5.2.2 Bid opening and contract award						
5.2.3 Notice to proceed						

# EXHIBIT B - SAP CONTRACT NO. 4600010665

EXHIBIT D  
SAP Contract No. 4600010665

Task	DWR Funds (Phase 1)	DWR Funds (Phase 2)	DWR Funds (Total)	Monterey County Funds	Other Grant Funds	Total
5.3 Construction Activities						
5.3.1 Existing Utility Removal and Replacement	\$500,000		\$500,000		\$100,000	\$600,000
5.3.2 Temporary Detour Construction	\$500,000		\$500,000		\$250,000	\$750,000
5.3.3 Embankment Removal and Causeway Construction	\$1,042,500	\$377,500	\$1,420,000		\$6,530,000	\$7,950,000
5.3.4 Utility Removal Along Existing Levee		\$125,000	\$125,000			\$125,000
5.3.5 Levee and Debris Removal		\$200,000	\$200,000		\$30,000	\$230,000
5.3.6 Initial Grading		\$800,000	\$800,000		\$40,000	\$840,000
5.3.7 Finish Grading		\$300,000	\$300,000		\$80,000	\$380,000
5.3.8 Planting of Vegetation (Seeding)		\$300,000	\$300,000			\$300,000
5.3.9 Construction Biological Monitoring		\$200,000	\$200,000		\$100,000	\$300,000
5.3.10 SWPPP Implementation	\$25,000	\$25,000	\$50,000		\$100,000	\$150,000
5.4 Notice of Completion						
6. Construction Administration		\$20,000	\$20,000		\$100,000	\$120,000
6.1 As-Built Engineering Documentation						
6.2 Post Construction Mitigation Monitoring		\$20,000	\$20,000		\$130,000	\$150,000
<b>Total</b>	<b>\$1,567,500</b>	<b>\$1,022,500</b>	<b>\$2,590,000</b>	<b>\$1,100,000</b>	<b>\$8,770,000</b>	<b>\$12,462,500</b>

1. \$500,000 used as 10% local match for DWR Grant.

PLANNED MAINTENANCE ACTIVITIES

COUNTY OF MONTEREY  
CARMEL RIVER FLOODPLAIN RESTORATION AND  
ENVIRONMENTAL ENHANCEMENT PROJECT

***Facilities to be Maintained***

**Causeway** - A roadway structure will be constructed on State Highway 1 that will be elevated over the Carmel Lagoon to provide for water to flow under. The structure will be approximately 520 feet in length and will consist of two 12 foot wide travel lanes and 8 foot wide shoulders.

**Levee Removal/Enhancement Area** - The Enhancement Area, after the levee is removed, will consist of areas planted with native plants and maintained with irrigation for the first three years as needed. The Enhancement Area will also be designed for self-recruitment of native plants and shrubs with inundation by annual flood flows. The objective of the grading and planting will be to create a natural floodplain environment that does not require ongoing management of either vegetation or sedimentation.

***Maintenance Goals***

Maintenance activities will be based on the preservation of land, protection of wildlife habitat and maintaining transitory storage capacity for reducing flood risk, consistent with the purposes of the Flood Corridor Program.

***Maintenance Framework***

The Causeway Project is to be located on State Route 1, will be constructed by the County of Monterey, but will be a Caltrans facility after construction. As such, it will be owned and maintained by Caltrans as part of the state highway system. The County of Monterey and Caltrans will enter into a Cooperative Agreement prior to construction that will provide for maintenance.

The Levee Removal/Enhancement Area Project will be constructed/installed by the County of Monterey. The agricultural preserve will be owned and maintained by the Big Sur Land Trust after construction while the floodplain area will be dedicated to the County of Monterey.

***Maintenance of Restoration Area***

Maintenance activities will be performed in accordance with the following descriptions:

The Enhancement Area will be documented as to type, location and number of native plants and shrubs installed in each planting area via flagging system and planting plan. Primary maintenance will be to conduct weeding and/or mowing for Years 1-3 along with maintaining irrigation to each planting area and plant. The planting area will be checked as needed for irrigation, plant condition, target planting density, and considerations for target roughness values (i.e., Manning's n) for floodwater conveyance, if applicable. Plant replacement or thinning will be

determined based on likelihood of failure and condition of plants, native and invasive nonnative plant recruitment and, if applicable (i.e., if the floodplain hydrologic and hydraulic modeling indicate a need for continued maintenance of the channel to keep roughness sufficiently low), maintenance of floodwater conveyance capacity. Replacement plants will be noted in planting plan as needed. The ongoing collection of litter on the site will be accomplished under the same programs for all County owned and maintained property.

***Maintaining Agency***

Causeway - Caltrans  
Enhancement Area - Big Sur Land Trust

***Maintenance Funding***

Causeway - State Highway Funding  
Enhancement Area - Stewardship funds from Big Sur Land Trust

***Maintenance Reporting***

The County of Monterey will submit an Annual Report of Maintenance Activities for the Causeway Project and the Levee Removal/Enhancement Area Project to the Department of Water Resources for a period of 5 years following the completion the project. The cooperative agreements with Caltrans and the Big Sur Land trust will require that those entities submit reporting information to the County of Monterey as required to complete the Annual Reports. The Annual Reports will include photos and will describe the maintenance inspections and activities performed during the year and any outstanding maintenance items.

***Long Term Maintenance Plan***

Causeway - Caltrans will be responsible for the long term maintenance of the Causeway as part of their maintenance responsibilities for the State highway system.

Levee Removal/Enhancement Area - The Big Sur Land Trust will incorporate the maintenance of the Restoration Area into its annual stewardship program for all properties in ownership by the Big Sur Land Trust. Annual activities for land stewardship include non-native plant species management, irrigation management if appropriate, plant condition assessment and replacement, and volunteer stewardship crews. BSLT Land Stewardship staff will oversee the long term maintenance of the Restoration Area.

## EXHIBIT C - MONTEREY COUNTY DRUG-FREE WORKPLACE POLICY

*Before the Board of Supervisors in and for the  
County of Monterey, State of California*

Resolution No. 91-384 --- )  
Establishing the "Monterey )  
County Drug-Free Workplace )  
Policy" ..... )

WHEREAS, the County of Monterey is desirous of providing and maintaining a safe workplace for all its employees; and

WHEREAS, the County of Monterey desires to protect the health, safety and well-being of employees and of the public,

BE IT RESOLVED THAT, the County does hereby establish the following policy for all its employees and volunteers, which shall be known as the "Monterey County Drug-Free Workplace Policy."

### POLICY

1. The unlawful manufacture, sale or distribution, dispensing, possession, use or being under the influence of a controlled substance is prohibited while on County property, at a County location, or while on duty as a County employee or volunteer.
2. In the case of any County employee or volunteer found to have violated any of the prohibitions contained in Section 1, appropriate disciplinary action consistent with any applicable collective bargaining agreement covering that employee and/or consistent with the current Monterey County Personnel Resolution, as amended, will be taken.
3. In addition to compliance with Section 1 of this policy, any County employee or volunteer engaged in the performance of duties or services pursuant to a federal grant or contract must as a condition of employment, notify the appointing authority (or his/her designee) of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. If the violation occurred at a work site where work is/was being done in connection with a specific federal grant or contract, the appointing authority shall inform the grant administrator and the granting agency within ten (10) days of such notification.
4. If any appointing authority (or his/her designee) becomes aware of any criminal drug statute conviction for a violation occurring in the workplace through some means other than Section 3 of this policy, and if the violation occurred at a work site where work is/was being done with a specific federal grant or contract, the appointing authority (or his/her designee) shall inform the granting agency within ten (10) days.
5. If the appointing authority (or his/her designee) becomes aware of any criminal drug statute conviction for a violation occurring in the workplace, it will take appropriate disciplinary



## EXHIBIT C - MONTEREY COUNTY DRUG-FREE WORKPLACE POLICY

action against such employee, up to and including termination, as provided for in any applicable collective bargaining agreement covering the employee and/or the Monterey County Personnel Resolution, as amended and/or will require that the convicted employee participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency.

6. In order to assure employee drug-free awareness and policy, the County shall provide the following program for all County employees and volunteers: distribution to each County employee and volunteer of (1) a brochure on the dangers of drug abuse; (2) distribution to all County employees and volunteers of a copy of this policy, and (3) dissemination of information regarding the County Employee Assistance program, in order to provide counseling and/or referral for extended counseling and/or treatment of drug-related problems. In addition, copies of applicable Monterey County collective bargaining agreements and of the current Monterey County Personnel Resolution, as amended, shall be available at each department work site for County employee and volunteer review.
7. The County will make good faith efforts to continue to maintain a drug-free workplace as described above.

PASSED AND ADOPTED on this 23<sup>rd</sup> day of July, 1991, upon motion of Supervisor Del Piero, seconded by Supervisor Strasser Kauffman, by the following vote, to-wit:

AYES: Supervisors Del Piero, Shipnuck, Perkins, Karas & Strasser Kauffman.

NOES: None.

ABSENT: None.

I, ERNEST K. MORISHITA, 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 at page \_\_\_\_\_ of Minutes Book \_\_\_\_\_, on JULY 23, 1991.  
Wet: July 23, 1991

ERNEST K. MORISHITA, Clerk of the Board  
of Supervisors, County of Monterey,  
State of California.

By Denise Duffy

Deputy



## Monterey County Board of Supervisors

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5086

### Board Order

#### Agreement No.: A-12775

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

- a. Approved Amendment No. 2 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc. to increase the not to exceed amount of \$321,769 by \$6,095 for a total amount not to exceed \$327,864 to allow the completion of tasks required by the United States Fish and Wildlife Services (USFWS) and the California Department of Transportation (Caltrans) to complete the Carmel River Floodplain Restoration and Environmental Enhancement Project in the Carmel Area Land Use Plan, for a term beginning July 29, 2014 through July 29, 2017; and
- b. Authorized the Contracts/Purchasing Officer or the Contracts/Purchasing Supervisor to execute Amendment No. 2 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 3rd day of May 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

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 May 3, 2016.

Dated: May 4, 2016  
File ID: A 16-103

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

By Denise Hancock  
Deputy

**AMENDMENT NO. 2  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
DENISE DUFFY & ASSOCIATES, INC.**

**THIS AMENDMENT NO. 2** 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 an additional +/- thirteen (13) 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**, due to unforeseen circumstances and documentation requirements from the United States Fish and Wildlife Service (USFWS) and California Department of Transportation (Caltrans), the Parties have identified a need to expand Task 2.2, Section 106 Documents, to include a Historic Property Survey Report, Historic Resource Evaluation Report, and Field Work and updated Archeological Survey Report and Task 2.5, Paleontological Identification Report (PIR), to include a Combined Paleontological Identification and Evaluation Report, to the original scope of work of this Agreement; and

**WHEREAS**, the Parties wish to reduce the cost associated with Task 2.4, Scenic Resource Evaluation (SRE) and Visual Impact Assessment (VIA) Memorandum, Task 2.6, Initial Site Assessment (ISA) for Hazardous Waste, Task 2.7, Noise Study Report (NSR), and Task 2.8, Air Quality Study (AQS), from the original scope of work of this Agreement; and

**WHEREAS**, the Parties wish to reallocate funding within the Agreement in the amount of \$33,500.00 from existing tasks to expand tasks required by USFWS and Caltrans to complete the Project; and

**WHEREAS**, the Parties wish to further amend the Agreement to reallocate funding in the amount of \$33,500 and increase funding in the amount of \$6,095.00 with no extension of the term to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 2.

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 and A-2 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 and A-2, 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 \$327,864.25.

3. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-2, Scope of Services/Payment Provisions", attached and incorporate by this reference.
4. All other terms and conditions of the Agreement remain unchanged and in full force.
5. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
6. The recitals to this Amendment No. 2 are incorporated into the Agreement and this Amendment No. 2.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

**COUNTY OF MONTEREY**

By: *Heidi Wilson*  
Contracts/Purchasing Officer

Date: May 6, 2016

**Approved as to Form and Legality  
Office of the County Counsel**

By: *Mary Grace Perry*  
Mary Grace Perry  
Deputy County Counsel

Date: 4-14-16

**Approved as to Fiscal Provisions**

By: *[Signature]*  
Auditor/Controller

Date: 4-15-16

**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.

**CONTRACTOR\***

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

By: *Denise Duffy*  
(Signature of Chair, President or Vice President)

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

Date: April 7, 2016

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

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

Date: April 7, 2016

## **EXHIBIT A-2 - 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 identified 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:

CONTRACTOR has coordinated with the United States Fish and Wildlife Service (hereinafter, "USFWS") and the California Department of Transportation (hereinafter, "Caltrans") to expand the services of the tasks below for the Project. USFWS and Caltrans require preparation of additional technical documents to complete tasks identified in the original scope of work of this Agreement for the Project and as follows:

**Task 2.2 Section 106 Documents**

- Historic Property Survey Report for Caltrans
- Historic Resource Evaluation Report for Caltrans
- Field Work and Updated Archeological Survey Report for USFWS

**Task 2.5 Paleontological Identification Report (PIR)**

- Combined Paleontological Identification and Evaluation Report for Caltrans

County has determined that the cost for the following tasks from the original scope of work of this Agreement shall be reduced for the Project:

**Task 2.4 Scenic Resource Evaluation (SRE) and Visual Impact Assessment (VIA) Memorandum**

**Task 2.6 Initial Site Assessment (ISA) for Hazardous Waste**

**Task 2.7 Noise Study Report (NSR)**

**Task 2.8 Air Quality Study (AQS)**

Services described in Task 2.4, 2.6, 2.7, and Task 2.8, in Exhibit A - Scope of Services/Payment Provisions of this Agreement shall not be provided unless authorized in writing by the County's Project Manager prior to these services being provided.

### **B. PAYMENT PROVISIONS**

**B.1 COMPENSATION/ PAYMENT**

County shall pay an increased amount of \$6,095.00 for a total amount not to exceed \$327,864.25 for the completion of tasks identified in this Exhibit A-2, Scope of Services/Payment Provisions.

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

The total not to exceed amount of this Agreement is \$327,864.25 for the performance of all things necessary for or incidental to the performance of work as set forth in Exhibits A, A-1 and A-2. CONTRACTOR'S compensation for services rendered shall be based on the following:

TASK	ORIGINAL TASK AMOUNT	ADDITIONAL TASK AMOUNT	REVISED TASK AMOUNT
<b>Task 2.2 Section 106 Documents</b>	<b>\$8,063.75</b>		<b>\$40,943.75</b>
• Historic Property Survey Report for Caltrans		\$ 9,050.00	
• Historic Resource Evaluation Report for Caltrans		\$18,530.00	
• Field Work and Updated Archeological Survey Report for USFWS		\$ 5,300.00	
<b>Task 2.5 Paleontological Identification Report (PIR)</b>	<b>\$3,463.75</b>		<b>\$6,488.75</b>
• Combined Paleontological Identification and Evaluation Report for Caltrans		\$ 3,025.00	
<b>CONTRACTOR Administrative Fee</b>		<b>\$ 3,690.00</b>	<b>\$3,690.00</b>
<b>TOTAL INCREASE AMOUNT:</b>		<b>\$30,595.00</b>	

TASK	ORIGINAL TASK AMOUNT	REDUCED TASK AMOUNT	REVISED TASK AMOUNT
<b>Task 2.4 Scenic Resource Evaluation (SRE) and Visual Impact Assessment (VIA) Memorandum</b>	<b>\$ 9,788.75</b>	<b>-\$ 8,000.00</b>	<b>\$1,788.75</b>
<b>Task 2.6 Initial Site Assessment (ISA) for Hazardous Waste</b>	<b>\$ 6,338.75</b>	<b>-\$ 5,000.00</b>	<b>\$1,338.75</b>
<b>Task 2.7 Noise Study Report (NSR)</b>	<b>\$10,363.75</b>	<b>-\$ 8,500.00</b>	<b>\$1,863.75</b>
<b>Task 2.8 Air Quality Study (AQS)</b>	<b>\$14,388.75</b>	<b>-\$12,000.00</b>	<b>\$2,388.75</b>
<b>TOTAL REDUCED AMOUNT:</b>		<b>-\$33,500.00</b>	

**TOTAL INCREASE TO AGREEMENT:**

**\$6,095.00**

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.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6.0, "Payment Conditions", of the Agreement. All invoices shall reference the 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:

## **EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

County of Monterey  
Resource Management Agency (RMA) - Finance Division  
168 West Alisal Street, 2<sup>nd</sup> 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-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### PAYMENT PROVISIONS

Invoices for services/work products/deliverables under the 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 Term: July 29, 2014 – June 30, 2016

Original Agreement Amount: \$256,769.25

Amendment No. 1: \$ 65,000.00; Extension of Term to July 29, 2017

Amendment No. 2: \$ 6,095.00 and Reallocation of Funds

This Invoice: 2.2

#### Section 106 Documents

\$ 9,050.00 Historic Property Survey Report for Caltrans

\$18,530.00 Historic Resource Evaluation Report for Caltrans

\$ 5,300.00 Field Work and Updated Archeological Survey Report for USFWS

2.5

#### Paleontological Identification Report (PIR)

\$ 3,025.00 Combined Paleontological Identification and Evaluation Report for Caltrans

\$ 3,690.00 CONTRACTOR Administrative Fee

**TOTAL INCREASE  
FOR EXPANDED  
TASKS:**

\$ 39,595.00

2.4

-\$ 8,000.00 Scenic Resource Evaluation (SRE) and Visual Impact Assessment Memorandum (VIA)

2.6

-\$ 5,000.00 Initial Site Assessment (ISA) for Hazardous Waste

2.7

-\$ 8,500.00 Noise Study Report (NSR)

2.8

-\$12,000.00 Air Quality Study (AQS)

**TOTAL CREDIT FOR  
REDUCED TASKS:**

-\$33,500.00

**TOTAL CHANGE TO AGREEMENT:**

\$6,095.00

Remaining Balance \$ \_\_\_\_\_

Approved as to Work/Payment: \_\_\_\_\_

*Melanie Beretti, RMA Service Manager*

\_\_\_\_\_  
Date

County of Monterey  
Resource Management Agency (RMA) – Finance Division  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, California 93901

#### 2. Invoice Detail

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



## Monterey County Board of Supervisors

### Board Order

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

**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

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

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

Approved as to Form and Legality  
Office of the County Counsel

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

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, 2<sup>nd</sup> 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	
	<b>Total Amendment No. 3 Budget Increase</b>		<b>\$ 47,375.00</b>
	<b>Total PSA and Amendments No. 1-2 Original Budget</b>		<b>\$ 327,864.25</b>
	<b>Total PSA Revised Budget</b>		<b>\$ 375,239.25</b>

## 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

This Invoice: Task 1.	Project Initiation	_____
	\$0.00 No Increase	_____
Task 2.	Prepare NEPA Required Technical Studies	_____
	\$16,725.00 Task 2.2, Section 106 Documents	_____
Task 3.	Preparation of the Combined CEQA/NEPA Document	_____
	\$13,100.00 Task 3.4, Prepare Screencheck and Public Review Draft IS/MND/EA/FONSI and Noticing	_____
Task 4.	Regulatory Permitting	_____
	\$15,000.00 Additional Regulatory Permitting	_____
Task 5.	Project Management	_____
	\$0.00 No Increase	_____
Task 6.	Meetings	_____
	\$2,550.00 Additional County Staff/Contractor Meetings	_____
Total Increase:	\$47,375.00	_____

Remaining Balance \$ \_\_\_\_\_

Approved as to Work/Payment: \_\_\_\_\_

*Melanie Beretti, RMA Service Manager*

\_\_\_\_\_ Date

#### 2. Invoice Detail

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

**EXHIBIT 3**  
**CALIFORNIA STATE COASTAL CONSERVANCY**  
**AGREEMENT NUMBER 17-024**  
**FOR THE**  
**CARMEL RIVER FLOODPLAIN RESTORATION AND**  
**ENVIRONMENTAL ENHANCEMENT PROJECT**

Reimbursement Agreement  
The Big Sur Land Trust  
Carmel River Floodplain Restoration and Environmental Enhancement Project  
RMA – Planning  
Term: Effective Upon Latest Date of Signature – Fully Reimbursed  
Not to Exceed: \$187,488

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 Std. 2 (Grant - Rev 08/08)

AGREEMENT NUMBER <b>17-024</b>	AM. NO.
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NO. <b>94-2473415</b>	

THIS AGREEMENT, made and entered into this 15<sup>th</sup> day of November, 2017,  
 in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE <b>Executive Officer</b>	AGENCY <b>State Coastal Conservancy</b>	, hereafter called the Conservancy, an
GRANTEE'S NAME <b>Big Sur Land Trust</b>		, hereafter called the Grantee.

The Grantee, for and in consideration of the covenants, conditions, agreements, and stipulations of the Conservancy hereinafter expressed does hereby agree as follows:

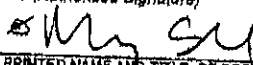
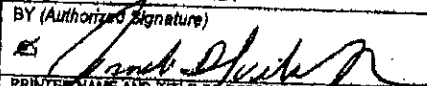
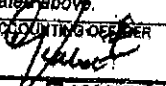
**SCOPE OF AGREEMENT**

Pursuant to Chapter 3 and 5.5 of Division 21 of the California Public Resources Code, the State Coastal Conservancy ("the Conservancy") hereby grants to the Big Sur Land Trust ("the grantee") a sum not to exceed \$245,000 (two hundred forty-five thousand dollars), subject to this agreement. The grantee shall use these funds to prepare an environmental review document and related studies for permitting of the Carmel River Floodplain Restoration and Environmental Enhancement Project ("the project") for the Lower Carmel River Floodplain area of Carmel-By-The-Sea, Monterey County as shown on Exhibit A, which is incorporated by reference and attached.

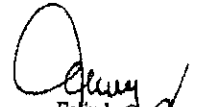
(Continued on following pages)

The provisions on the following pages constitute a part of this agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

AGENCY <b>State Coastal Conservancy</b>		GRANTEE <b>Big Sur Land Trust</b>	
BY (Authorized Signature) 		BY (Authorized Signature) 	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Samuel Schuchat, Executive Officer</b>		PRINTED NAME AND TITLE OF PERSON SIGNING <b>Jaannette Tuitele-Lewis, President/CEO</b>	
ADDRESS & PHONE NUMBER <b>1515 Clay Street, 10<sup>th</sup> Floor Oakland, CA 94612</b>		ADDRESS <b>509 Hartnell Street Monterey, CA 93940</b>	
Phone: (510) 286-1015		Phone: (831) 625-5523	
AMOUNT ENCUMBERED BY THIS DOCUMENT <b>\$245,000.00</b>	PROGRAM/CATEGORY (CODE AND TITLE) <b>Local Assistance</b> (OPTIONAL USE) <b>Carmel River Floodplain Restoration</b>	FUND TITLE <b>Federal Trust Fund</b>	
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT <b>\$-0-</b>	ITEM <b>3760-101-089000000 (F10AP00825/15.614)(USFWS)</b>	CHAPTER <b>10</b>	STATUTE <b>2015</b>
TOTAL AMOUNT ENCUMBERED TO DATE <b>\$245,000.00</b>	OBJECT OF EXPENDITURE (CODE AND TITLE) <b>Enhancement</b>	FISCAL YEAR <b>15/16</b>	
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.			
SIGNATURE OF ACCOUNTING OFFICER 		DATE <b>11/01/2017</b>	
<input checked="" type="checkbox"/> GRANTEE <input checked="" type="checkbox"/> ACCOUNTING <input type="checkbox"/> PROJECT MANAGER <input type="checkbox"/> CONTROLLER <input type="checkbox"/> STATE AGENCY			

I certify that this agreement is exempt from Department of General Services' approval.

  
**Erlinda Cruz**  
 Procurement and Contracts Manager

**SCOPE OF AGREEMENT (Continued)**

Grantee, in collaboration with the County of Monterey, shall prepare final joint environmental documentation, including all required assessments and studies, for the Carmel River Floodplain Restoration and Environmental Enhancement Project (CRFREE), pursuant to the California Environmental Quality Act (CEQA) and pursuant to the National Environmental Policy Act (NEPA). It is contemplated that the environmental documentation required under CEQA and NEPA may consist of a joint environmental impact report/environmental impact statement (EIR/EIS) or an EIR/Environmental Assessment. In preparing the environmental documentation, grantee shall solicit comments and input from grant funding agencies and other responsible agencies by issuance of an administrative draft prior to publishing a draft for public review. The County of Monterey will be the lead agency for CEQA and the United States Fish and Wildlife Service, with Caltrans, will be the lead agency under NEPA. Grantee shall also provide project management, including agency coordination, fund raising and public engagement.

The grantee shall carry out the project in accordance with this agreement and a work program as provided in the "WORK PROGRAM" section, below. The grantee shall provide any funds beyond those granted under this agreement which are needed to complete the project.

**CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT**

The grantee shall not commence the project and the Conservancy shall not be obligated to disburse any funds under this agreement until the following conditions precedent have been met:

1. The board of trustees of the grantee has adopted a resolution designating positions whose incumbents are authorized to negotiate and execute this agreement and amendments to it on behalf of the grantee.
2. The Executive Officer of the Conservancy ("Executive Officer") has approved in writing:
  - a. The work program for the project as provided in the "WORK PROGRAM" section, below.
  - b. All contractors that the grantee intends to retain in connection with the project.
3. The grantee has provided written evidence to the Conservancy that the grantee has provided for required insurance coverage, including additional insured endorsement, as described in the "INSURANCE" section, below.
4. The grantee has completed and returned to the Conservancy the Federal Sub-Awardee Questionnaire.

**CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT** (Continued)

In carrying out the project, the grantee shall:

1. Complete final environmental documentation under CEQA and NEPA for the CRFREE, as that project is described in the Conservancy's 2017 application for Federal financial assistance, amendment, entitled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project", which included an updated narrative description of the CRFREE. A copy of the application with included narrative project description has been provided to the grantee
2. Comply with all applicable terms and conditions that may be required by the FWS NCWC Grant to the Conservancy or that may be necessary to enable the Conservancy to comply with terms and conditions of the grant (see "NCWC GRANT REQUIREMENTS" section, below).

**TERM OF AGREEMENT**

This agreement shall take effect when signed by both parties and received in the office of the Conservancy together with the resolution described in the "CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT" section of this agreement. An authorized representative of the grantee shall sign the first page of the originals of this agreement in ink.

This agreement shall run from its effective date through December 31, 2019 ("the termination date") unless otherwise terminated or amended as provided in this agreement. However, all work shall be completed by June 1, 2019 ("the completion date").

**AUTHORIZATION**

The signature of the Executive Officer of the Conservancy on this agreement certifies that at its June 15, 2017 meeting, the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit B. This agreement is executed under that authorization.

Funding for the project under this agreement is being provided by a grant (the "NCWC Grant") to the Conservancy by the U. S. Fish and Wildlife Service under its National Coastal Wetlands Conservation Grant Program. The Executive Officer's signature on this agreement acknowledges that the NCWC Grant has been awarded specifically for the work under this agreement. In carrying out the project work under this agreement the grantee shall comply with

**AUTHORIZATION** (Continued)

all applicable requirements imposed by the NCWC Grant, as detailed in "NCWC Grant Requirements" section, below.

**NCWC GRANT REQUIREMENTS**

In accordance with the requirements of the NCWC Grant, any work under this agreement is subject to additional provisions under that grant. With respect to such work, the grantee shall comply with all award requirements under the NCWC Grant, including all of those requirements (collectively "Award Requirements") found in the following NCWC Grant documents:

- A. United States Fish and Wildlife Service ("USFWS") Notice of Notice of Federal Assistance Award for C-31-L-1, "Odello East Floodplain Restoration Project, Monterey County, CA" dated August 27, 2010 (the "Award Notice"), as amended by USFWS Notice of Federal Assistance Award for F10AP00825 (C-31-L-1) Amendment 1, dated January 16, 2014 ("Award Notice, Am. 1"), and as further amended by USFWS "Notice of Amendment to Grant Award for FBMS# F10AP00825 (C-31-L-1) Amendment 2 ("Award Notice, Am. 2"). These NCWC Grant award notices are collectively attached to this agreement as Exhibit C and incorporated by this reference. USFWS issued the Award Notice, Am. 2 based on the Conservancy's 2017 application for Federal financial assistance amendment entitled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project", which included an updated narrative description of the CRFREE (the "Grant Proposal"), to which the NCWC Grant is to be applied. Although an important element of the Notice of Award, Am. 2, the Grant Proposal is not attached to this agreement because of the substantial size of the document. Instead, an electronic copy of the Grant Proposal has been separately provided to the grantee and the Grant Proposal is incorporated into this agreement by this reference.
- B. USFWS, Financial Assistance Award Terms and Conditions, Effective Date January 6, 2017, found on the internet at this address:  
<https://www.fws.gov/grants/pdfs/USFWSFAAwardTermsandConditions01-06-17B.pdf>

The grantee shall carefully review all of the Award Requirements and, as applicable, comply with those requirements. The Award Requirements include, *but are not limited to*, the following:

1. The "Special Conditions and Provisions" of the Award Notice, Award Notice, Am. 1, and Award Notice Am. 2.

**NCWC GRANT REQUIREMENTS** (Continued)

The grantee shall provide to the Conservancy the information necessary for the Conservancy to comply with the following or any other applicable requirements. The information may be combined with information otherwise required under this agreement.

- a. Interim and final performance and financial reports. (See Award Notice, Am. 2, page 3, "Reporting Requirements").
2. Grantee shall carry out the project consistent with the description set forth in the Grant Proposal, which is included in Exhibit C.
3. USFWS, Financial Assistance Award Terms and Conditions, Effective Date January 6, 2017, found on the internet at this address: <https://www.fws.gov/grants/pdfs/USFWSFAAwardTermsandConditions01-06-17B.pdf> including, *but not limited to*:
  - a. Requirements of subgrantees under 2 CFR §1400 – Government wide Debarment and Suspension (Non-procurement).
  - b. Requirements of 2 CFR §1401, Drug-Free Workplace.
  - c. Requirements under 43 CFR Part 18, New Restrictions on Lobbying, including executing and returning to the State the Certification Regarding Lobbying: [http://apply07.grants.gov/apply/forms/sample/GG\\_LobbyingForm-V1.1.pdf](http://apply07.grants.gov/apply/forms/sample/GG_LobbyingForm-V1.1.pdf)
  - d. Compliance with the requirements of the federal Administrative Requirements and Audit Requirements found at 2 C.F.R. Part 200, Subparts A through E. These requirements include, *but are not limited to*, the following:
    - i. Record retention and access requirements under 2 CFR §200.333 et seq.
    - ii. Procurement Standards, found at 2 CFR §§200.317– 200, which require grantee to: use specified methods of procurement (§200.320); take all specified affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible (§200.321); perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, currently \$150,000, but periodically adjusted for inflation (§200.323); and to incorporate into any procurement contract the applicable provisions described in Appendix II to Part 200— Contract Provisions for non-Federal Entity Contracts Under Federal Awards (§200.326).



NCWC GRANT REQUIREMENTS (Continued)

- iii. Grantee shall undertake an annual federal single audit (or alternative) as and when required by 2 CFR, Part 200, Subpart F (2 CFR §§ 200.500 et seq.) and provide a copy to the Conservancy on completion of each such audit throughout the term of this agreement. Further, on execution of this agreement, the grantee shall provide the Conservancy with a copy of its most recently completed annual federal single audit (or alternative) and shall complete and return to the Conservancy the questionnaire concerning internal audit controls (the "Federal Sub-Awardee Questionnaire"), which has been provided by the Conservancy to the grantee.
- e. Grantee shall comply with federal Davis Bacon Act and the Department of Labor regulations concerning the Davis-Bacon Act and other federal wage laws. When required by the Davis-Bacon Act, the Department of Labor's (DOL) government-wide implementation of the Davis-Bacon Act, or by Federal program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2,000 financed by Federal assistance funds must be paid wages not less than those established for the locality of the Project (prevailing wage rates) by the DOL. Non-federal entities must include in their construction contracts a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and the DOL regulations. In addition, grantee must comply with Pres. Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60) (all construction contracts awarded in excess of \$10,000); the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3) (for contracts for construction or repair); and Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5) (construction contracts awarded in excess of \$2,000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers).
- f. Grantee shall comply with the requirements specified in 2 CFR Part 175, prohibiting specified acts involving "trafficking in persons" by grantee or its employees during the term of the federal grant. Grantee, its employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.
- g. Requirements under 41 USC §4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection, which requires compliance with the following:

**NCWC GRANT REQUIREMENTS** (Continued)

- (i) This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712.
- (ii) Grantee and its contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.
- (iii) The grantee shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award.

Standard Provisions

WORK PROGRAM

Before beginning the project, the grantee shall submit a detailed work program to the Executive Officer for review and written approval of its consistency with this grant agreement. The work program shall include:

1. The specific tasks to be performed.
2. A schedule of completion for the project, specifically listing the completion date for each project component and a final project completion date.
3. A detailed project budget. The project budget shall describe all labor and materials costs of completing each component of the project. For each project component, the project budget shall list all intended funding sources including the Conservancy's grant, and all other sources of monies, materials, or labor.

If all or any part of the project to be funded under this agreement will be performed by third parties ("contractors") under contract with the grantee, then the grantee shall, prior to initiating any contractor selection process, submit the selection package to the Executive Officer for review and written approval as to consistency with the purposes of this grant agreement. Upon approval by the Executive Officer, the grantee shall proceed with the contractor selection process. Prior to final selection of a contractor, the grantee shall submit to the Executive Officer for written approval the names of all contractors that the grantee intends to hire. The grantee shall then comply with the above paragraph regarding submission and approval of a work program prior to project commencement.

The work program shall have the same effect as if included in the text of this agreement. However, the work program may be modified without amendment of this agreement upon the grantee's submission of a modified work program and the Executive Officer's written approval of it. If this agreement and the work program are inconsistent, the agreement shall control.

The grantee shall carry out the project in accordance with the approved work program.

COORDINATION AND MEETINGS

The grantee shall coordinate closely with Conservancy staff and other involved entities, including local, state and federal agencies, and shall participate in meetings and other communications as necessary to ensure coordination.

### **WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT**

All material, data, information, and written, graphic or other work produced, developed or acquired under this agreement is subject to the unqualified and unconditional right of the Conservancy to use, reproduce, publish, display, and make derivative use of all such work, or any part of it, free of charge and in any manner and for any purpose; and to authorize others to do so. If any of the work is subject to copyright, trademark, service mark, or patent, the Conservancy is granted and shall have a perpetual, royalty-free, nonexclusive and irrevocable license to use, reproduce, publish, use in the creation of derivative works, and display and perform the work, or any part of it, and to grant to any third party a comparable and coextensive sublicense.

The grantee shall include in any contract with a third party for work under this agreement terms that preserve the rights, interests, and obligations created by this section, and that identify the Conservancy as a third-party beneficiary of those provisions.

The grantee shall not utilize the work produced under this agreement for any profit-making venture, or sell or grant rights to a third party for that purpose.

In order to acknowledge the Conservancy's support of the project, the Conservancy's name and logo shall be included in the final report in a prominent location

### **COSTS AND DISBURSEMENTS**

When the Conservancy determines that all "CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT" have been fully met, the Conservancy shall disburse to the grantee, in accordance with the approved project budget, a total amount not to exceed the amount of this grant, as follows:

The Conservancy shall disburse funds for costs incurred to date, less five percent, upon the grantee's satisfactory progress under the approved work program and upon submission of a "Request for Disbursement" form, which shall be submitted no more frequently than monthly but no less frequently than quarterly. The Conservancy shall disburse the five percent withheld upon the grantee's satisfactory completion of the project and compliance with the "PROJECT COMPLETION" section, below, and upon the Conservancy's acceptance of the project.

The Conservancy will reimburse the grantee for expenses necessary to the project when documented by appropriate receipts. The Conservancy will reimburse travel and related expenses at actual costs not to exceed the rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations ("CCR"), except that reimbursement may be in excess of these rates upon documentation that these rates are not reasonably available to the grantee. Reimbursement for the cost of operating a private vehicle

**COSTS AND DISBURSEMENTS** (Continued)

shall not, under any circumstance, exceed the current rate specified by the State of California for unrepresented state employees as of the date the cost is incurred. The Conservancy will reimburse the grantee for other necessary expenses if those expenses are reasonable in nature and amount taking into account the nature of the project, its location, and other relevant factors.

The grantee shall request disbursements by filing with the Conservancy a fully executed "Request for Disbursement" form (available from the Conservancy). The grantee shall include in the form its name and address, the number of this agreement, the date of the submission, the amount of the invoice, the period during which the work was actually done, and an itemized description, including time, materials, and expenses incurred, of all work done for which disbursement is requested. Hourly rates billed to the Conservancy and specified in the approved work program budget shall be equal to the actual compensation paid by grantee to employees, which may include employee benefits. The form shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of funds under the grant agreement.

An authorized representative of the grantee shall sign the form. Each form shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs that the grantee has incurred.
2. Invoices from contractors that the grantee engaged to complete any portion of the work funded under this agreement and any receipts and any other source documents for costs incurred and expenditures by any such contractor, unless the Executive Officer makes a specific exemption in writing.
3. A supporting progress report summarizing the current status of the work and comparing it to the status required by the work program (budget, timeline, tasks, etc.), including written substantiation of completion of the portion of the project for which the grantee is requesting disbursement.

The grantee's failure to fully execute and submit a Request for Disbursement form, including attachment of supporting documents, will relieve the Conservancy of its obligation to disburse funds to the grantee unless and until the grantee corrects all deficiencies.

#### **EXPENDITURE OF FUNDS AND ALLOCATION OF FUNDING AMONG BUDGET ITEMS**

The total amount of this grant may not be increased except by written amendment to this agreement. The grantee shall expend funds consistent with the approved project budget. Expenditure on items contained in the approved project budget, other than overhead and indirect costs, may vary by as much as ten percent without prior approval by the Executive Officer, provided that the grantee first submits a revised budget to the Conservancy and requests disbursement based on the revised budget. Any deviation greater than ten percent, and any deviation that shifts funds from approved budget items into an overhead or indirect costs category, must be identified in a revised budget approved in advance and in writing by the Executive Officer. The Conservancy may withhold payment for items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

#### **PROJECT COMPLETION**

The grantee shall complete the project by the completion date provided in the "TERM OF AGREEMENT" section, above. Upon completion of the project, the grantee shall supply the Conservancy with evidence of completion by submitting:

1. The plan and any other work products specified in the work program for the project, each in a format or formats (for example, paper, digital, photographic) approved by the Executive Officer.
2. A fully executed final "Request for Disbursement."

Within thirty days of the grantee's submission of the above, the Conservancy shall determine whether the grantee has satisfactorily completed the project. If so, the Conservancy shall issue to the grantee a letter of acceptance of the project. The project shall be deemed complete as of the date of the letter.

#### **EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM**

Before the project has commenced, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing.

Before the project is complete, the Conservancy may terminate or suspend this agreement for any reason by providing the grantee with seven days notice in writing. In either case, the grantee

**EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM** (Continued)

shall immediately stop work under the agreement and take all reasonable measures to prevent further costs to the Conservancy. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding authorized in this agreement. Any notice suspending work under this agreement shall remain in effect until further written notice from the Conservancy authorizes work to resume.

If the grantee fails to complete the project as required, or fails to fulfill any other obligations of this agreement prior to the termination date, the grantee shall be liable for immediate repayment to the Conservancy of all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and not require repayment for work partially completed. This paragraph shall not be deemed to limit any other remedies the Conservancy may have for breach of this agreement.

Before the project is complete, the grantee may terminate this agreement for any reason by providing the Conservancy with seven days notice in writing and repaying to the Conservancy all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and allow early termination without repayment for work partially completed.

On or before the date of termination of the agreement under this section, whether terminated by the grantee or the Conservancy, the grantee shall provide the Conservancy with all work, material, data, information, and written, graphic or other work produced, developed or acquired under this agreement (whether completed or partial), in appropriate, readily useable form.

The parties expressly agree to waive, release and relinquish the recovery of any consequential damages that may arise out of the termination or suspension of this agreement under this section.

The grantee shall include in any agreement with any contractor retained for work under this agreement a provision that entitles the grantee to suspend or terminate the agreement with the contractor for any reason on written notice and on the same terms and conditions specified in this section.

**INDEMNIFICATION AND HOLD HARMLESS**

The grantee shall be responsible for, indemnify and hold harmless the Conservancy, its officers, agents and employees from any and all liabilities, claims, demands, damages, or costs, including without limitation litigation costs and attorneys fees, resulting from or arising out of the willful or negligent acts or omissions of the grantee, its officers, agents, contractors, subcontractors and employees, or in any way connected with or incident to this agreement, except for the active

**INDEMNIFICATION AND HOLD HARMLESS** (Continued)

negligence of the Conservancy, its officers, agents or employees. The duty of the grantee to indemnify and hold harmless includes the duty to defend as provided in Civil Code Section 2778.

The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

Nothing in this agreement is intended to create in the public or in any member of it rights as a third-party beneficiary under this agreement.

**INSURANCE**

Throughout the term of this agreement, the grantee shall procure and maintain insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the grantee or its agents, representatives, employees or contractors associated with the project undertaken pursuant to this agreement. As an alternative, with the written approval of the Executive Officer, the grantee may satisfy the coverage required by this section in whole or in part through: (a) its contractors' procurement and maintenance of insurance for work under this agreement, if the coverage otherwise fully satisfies the requirements of this section; or (b) the grantee's participation in a "risk management" plan, self insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section.

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:
  - a. Insurance Services Office ("ISO") Commercial General Liability coverage, occurrence basis (Form CG 00 01) or comparable.
  - b. Automobile Liability coverage - ISO Form Number CA 0001, Code 1 (any auto).
  - c. Workers' Compensation insurance as required by the Labor Code of the State of California.
2. Minimum Limits of Insurance. Grantee shall maintain coverage limits no less than:



**INSURANCE** (Continued)

- a. General Liability:  
*(Including operations, products and completed operations, as applicable)* \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this agreement or the general aggregate limit shall be twice the required occurrence limit.
- b. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Officer.
4. Required Provisions Concerning the Conservancy and the State of California.
  - a. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days' prior written notice by first class mail has been given to the Conservancy; or in the event of cancellation of coverage due to nonpayment, after ten days prior written notice to the Conservancy. The grantee shall notify the Conservancy within two days of receipt of notice that any required insurance policy will lapse or be cancelled. At least ten days before an insurance policy held by the grantee lapses or is cancelled, the grantee shall provide the Conservancy with evidence of renewal or replacement of the policy.
  - b. The grantee hereby grants to the State of California, its officers, agents, employees, and volunteers, a waiver of any right to subrogation which any insurer of the grantee may acquire against the State of California, its officers, agents, employees, and volunteers, by virtue of the payment of any loss under such insurance. Grantee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the grantee has received a waiver of subrogation endorsement from the insurer.
  - c. The general liability and automobile liability policies are to contain, or to be endorsed to contain, the following provisions:
    - (i) The State of California, its officers, agents and employees are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the grantee; and with respect to liability arising out of work or operations, including completed operations, performed by or on

**INSURANCE** (Continued)

behalf of the grantee including materials, parts or equipment furnished in connection with such work or operations.

- (ii) For any claims related to this agreement, the grantee's insurance coverage shall be primary insurance with respect to the State of California, its officers, agents and employees, and not excess to any insurance or self-insurance of the State of California.
  - (iii) The limits of the additional insured coverage shall equal the limits of the named insured coverage regardless of whether the limits of the named insurance coverage exceed those limits required by this agreement.
  - d. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
5. Acceptability of Insurers. Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+:VII" or better or, in the alternative, acceptable to the Conservancy and approved in writing by the Executive Officer.
6. Verification of Coverage. The grantee shall furnish the Conservancy with original certificates and amendatory endorsements, or copies of the applicable policy language, effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Executive Officer before work commences. The Conservancy reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage, at any time.
7. Contractors. The grantee shall include all contractors as insureds under its policies or shall require each contractor to provide and maintain coverage consistent with the requirements of this section. To the extent generally available, grantee shall also require each professional contractor to provide and maintain errors and omissions liability insurance appropriate to the contractor's profession and in a reasonable amount in light of the nature of the project.
8. Premiums and Assessments. The Conservancy is not responsible for premiums and assessments on any insurance policy.

### AUDITS/ACCOUNTING/RECORDS

The grantee shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Principles" ("GAAP") published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to work under the agreement. Time and effort reports are also required. The grantee shall maintain adequate supporting records in a manner that permits tracing from the request for disbursement forms to the accounting records and to the supporting documentation.

Additionally, the Conservancy or its agents may review, obtain, and copy all records relating to performance of the agreement. The grantee shall provide the Conservancy or its agents with any relevant information requested and shall permit the Conservancy or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the required records for a minimum of three years following final disbursement by the Conservancy. The records shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during the retention period.

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

### NONDISCRIMINATION

During the performance of this agreement, the grantee and its contractors shall not deny the agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The grantee shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. The grantee and contractors shall comply with the provisions of the

**NONDISCRIMINATION** (Continued)

Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the Conservancy to implement such article. The grantee shall permit access by representatives of the Department of Fair Employment and Housing and the Conservancy upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or the Conservancy shall require to ascertain compliance with this clause. The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

The grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work under this agreement.

**INDEPENDENT CAPACITY**

The grantee, and the agents and employees of the grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

**ASSIGNMENT**

Without the written consent of the Executive Officer, this agreement is not assignable by the grantee in whole or in part.

**TIMELINESS**

Time is of the essence in this agreement.

**EXECUTIVE OFFICER'S DESIGNEE**

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

**AMENDMENT**

Except as expressly provided in this agreement, no change in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

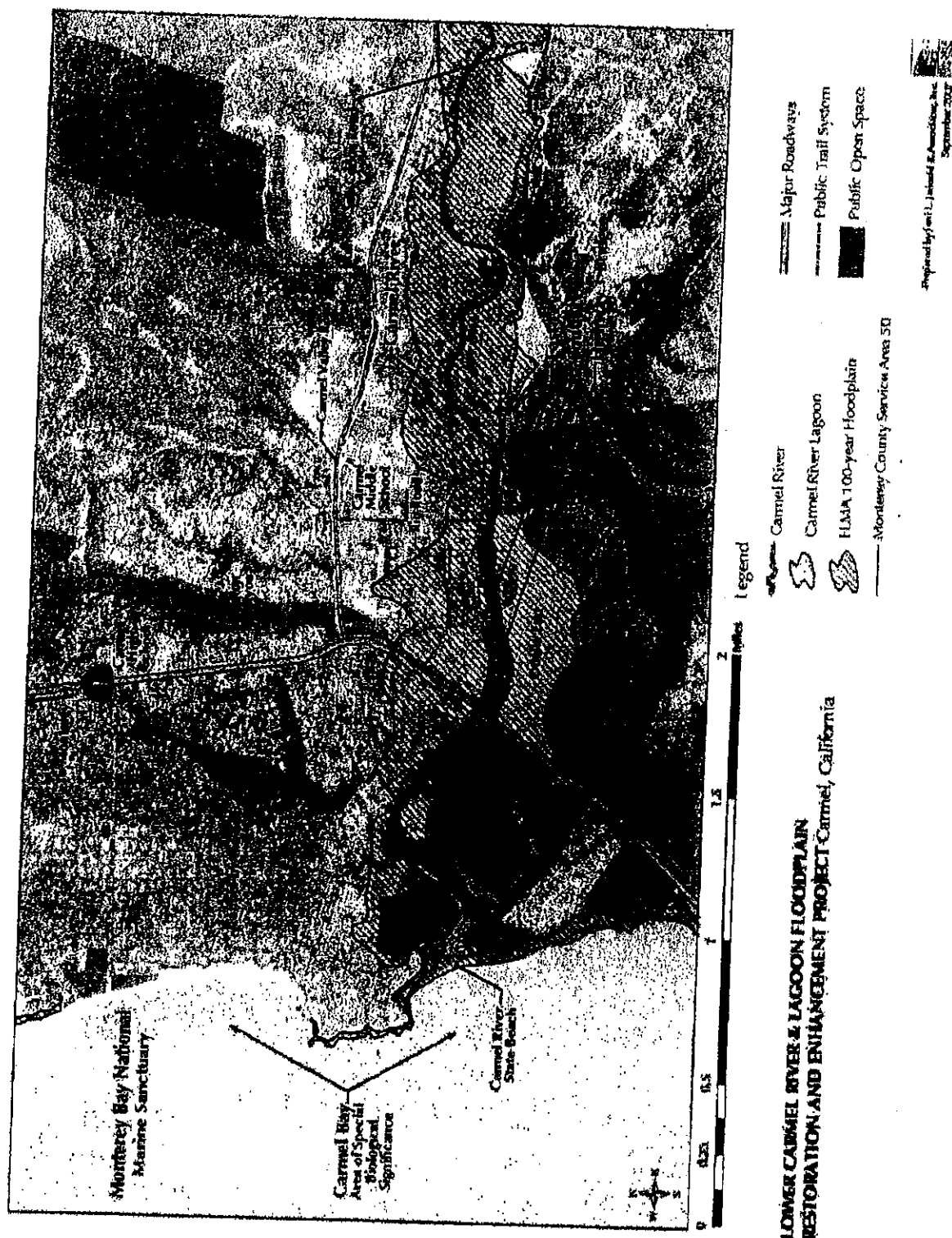
**LOCUS**

This agreement is deemed to be entered into in the County of Alameda.

**SURVIVAL**

The obligations in the "WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT" and "INDEMNIFICATION AND HOLD HARMLESS" sections, above, shall survive the termination of this agreement.

**Exhibit 1b: Site Map**



COASTAL CONSERVANCY

Staff Recommendation

June 15, 2017

**LOWER CARMEL RIVER FLOODPLAIN RESTORATION – DESIGN AND ENVIRONMENTAL COMPLIANCE**

Project No. 08-036-01

Project Manager: Tom Gandesbery

**RECOMMENDED ACTION:** Augmentation of the Conservancy's August 5, 2010 authorization to disburse an additional amount of up to \$245,000 from a grant from the U.S. Fish and Wildlife Service to the Big Sur Land Trust for the Lower Carmel River Floodplain Restoration Project in Monterey County.

**LOCATION:** Lower Carmel River, Monterey County (Exhibit 1)

**PROGRAM CATEGORY:** Integrated Coastal and Marine Resources

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**EXHIBITS**

Exhibit 1: Project Location Map

Exhibit 2: August 5, 2010 Staff Recommendation

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31111 & 31220 of the Public Resources Code:

"The State Coastal Conservancy hereby augments its August 5, 2010 authorization to disburse an additional amount of up to two hundred and forty five thousand dollars (\$245,000) of federal grant funds to the Big Sur Land Trust (BSLT) to prepare project design, conduct additional environmental review, and prepare permit applications for the Lower Carmel River Floodplain Restoration Project in Monterey County. This authorization remains subject to the August 5, 2010 resolution conditions."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed project remains consistent with the Conservancy's June 5, 2008 and August 5, 2010 authorizations regarding the purposes and objectives of Chapters 3 and 5.5 of Division

## LOWER CARMEL RIVER FLOODPLAIN RESTORATION

21 of the Public Resources Code, respectively funding feasibility studies and Integrated Coastal and Marine Resources Protection; the Project Selection Criteria and Guidelines; local watershed management plans and water quality control plans; the nonprofit qualifications of the BSLT; and compliance with the California Environmental Quality Act."

### **PROJECT SUMMARY:**

Staff recommends that the Conservancy amend its August 5, 2010 authorization to disburse an additional \$245,000 to the Big Sur Land Trust (BSLT) for the Lower Carmel River Floodplain Restoration Project in Monterey County. The additional funding will be used to work with the County of Monterey to prepare a Draft and Final Environmental Impact Report and Statement (EIR/EIS), consistent with the California Environmental Policy Act and National Environmental Policy Act (CEQA/NEPA, respectively).

Funding for the proposed augmentation will be from a U.S. Fish and Wildlife Service (USFWS) National Coastal Wetland Conservation \$925,000 grant awarded to the Conservancy in 2010 specifically for planning and implementation of the Lower Carmel River Floodplain Restoration project. This grant originally stipulated that \$180,000 could be used for project planning and the remaining \$745,000 was reserved for project implementation. In August 2010, the Conservancy authorized the use of \$180,000 of these funds for planning, environmental review, and permitting. However, the project partners recently decided that the project required a more comprehensive environmental document, including preparation of an EIS pursuant to NEPA. As a result, BSLT requested, an additional \$245,000 in funding to cover the planning phase of the project, leaving \$500,000 for future implementation of the project. At this writing, while the USFWS staff support this approach, it is currently evaluating a budget revision to the grant to allocate \$425,000 for planning and \$500,000 for implementation and to extend the grant term. Conservancy staff expects that the USFWS will formally approve this grant amendment prior to the Conservancy's June 15, 2017 meeting.

Since 2010, the BSLT has been working closely with the County of Monterey, the Carmel Area Wastewater District (CAWD), California State Department of Parks and Recreation (State Parks) and other stakeholders to complete restoration designs and environmental clearances. The County agreed to oversee construction of the project, and as a result has taken over the lead partnership role working in continued collaboration with BSLT. The project involves large amounts of grading to reestablish floodplain and construction of a causeway along Highway 1. For additional project information see Exhibit 2.

Staff plans to recommend additional funding for implementation of the project after the environmental document is complete.

**Site Description:** See Exhibit 2, "Site Description" section.

**Project History:** See Exhibit 2, "Project History" section.



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**LOWER CARMEL RIVER FLOODPLAIN RESTORATION**

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**PROJECT FINANCING**

**Current authorization**

U.S. Fish and Wildlife Service	\$245,000
<b>Subtotal of Current Authorization</b>	<b>\$245,000</b>

**Previous authorization**

U.S. Fish and Wildlife Service	\$180,000
Coastal Conservancy	\$250,000
U.S. Environmental Protection Agency	\$200,000
County of Monterey (requested)	\$75,000
Big Sur Land Trust	<u>\$65,000</u>
<b>Subtotal of Previous Authorization</b>	<b>\$770,000</b>

<b>Total Project Costs</b>	<b>\$1,015,000</b>
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The funding for this augmentation is provided from the USFWS National Coastal Wetlands Conservation Grant awarded to the Conservancy specifically for the Lower Carmel River Restoration Project. The National Coastal Wetlands Conservation Grant Program provides matching grants to States for acquisition, restoration, management or enhancement of coastal wetlands. The Big Sur Land Trust has provided a land donation, in-kind services, and additional funding to serve as the non-federal match necessary to receive these funds. USFWS is expected to approve a budget revision to the grant to allocate \$360,000 for planning and \$500,000 for implementation.

**CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The project remains consistent with the Conservancy's enabling legislation as described in the August 5, 2010 staff recommendation (See Exhibit 2).

**CONSISTENCY WITH CONSERVANCY'S 2013 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S), AS REVISED JUNE 25, 2015:**

The project is consistent with the Conservancy's Strategic Plan goals and objectives as described in the August 5, 2010 staff recommendation (See Exhibit 2).

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The project remains consistent with the Conservancy's Project Selection Criteria and Guidelines as described in the August 5, 2010 staff recommendation (Exhibit 2). However, since the August 2010 authorization, the Project Selection Criteria & Guidelines were amended to include an additional required criterion, which is that a project must promote and implement state plans and policies.

## LOWER CARMEL RIVER FLOODPLAIN RESTORATION

**Promotion and implementation of state plans and policies:** This proposed project is consistent with the following plans and policies:

- The project implements the *California Water Action Plan* (California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture, 2014), which includes goal number 4: protect and restore important ecosystems by improving rearing habitat for SCCC steelhead. This project will address this goal.
- The project is consistent with the California Department of Fish and Wildlife's 2005 *California Wildlife Action Plan*, which sets forth goals for the Central Coast region that include protecting sensitive species and important wildlife habitat and restoring anadromous fish populations. This project will address both of these goals.
- The project implements a recovery objective identified for the Carmel River biogeographic group in the South-Central California Coast Steelhead Recovery Plan (National Marine Fisheries Service, 2013) specifically, to "restore suitable habitat conditions and characteristics to support all life history stages of viable [steelhead] populations..." DPS Recovery Objective 6.2 (Page 6-2).

### **CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

The project remains consistent with the Local Coastal Program as described in the August 5, 2010 staff recommendation (See Exhibit 2).

### **CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/ STATE WATER QUALITY CONTROL PLAN:**

The project remains consistent with local watershed management plans and the State Water Quality Control Plan as described in the August 5, 2010 staff recommendation (See Exhibit 2).

### **COMPLIANCE WITH CEQA:**

In its August of 2010 authorization, the Conservancy determined that the project was statutorily exempt from the California Environmental Quality Act (CEQA), pursuant to 14 Cal. Code of Regulations Section 15262 because the project only involves preparation of planning studies and environmental documents for possible future actions which the Conservancy has not approved, adopted, or funded and the studies will consider environmental factors. (See Exhibit 2) . . .

The proposed augmentation only increases funding for the preparation of the same planning studies and environmental documents that constitute the project. The addition of funding for this statutorily-exempt project does not have the potential for a significant effect on the environment. (See 14 Cal. Code of Regs Section 15382). Therefore, no new analysis or further compliance is required under CEQA for the approval of additional funding for this project



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Pacific Southwest Region  
Wildlife & Sport Fish Restoration Program  
2800 Cottage Way, W-1729  
Sacramento, California 95825-1846



In Reply Refer To:  
FWS/R8/WSFR

Ms. Trish Chapman  
California Coastal Conservancy  
1330 Broadway, Suite 1300  
Oakland, California 94612

August 27, 2010

Subject: Notice of Federal Assistance Award for C-31-L-1

Dear Ms. Engeman:

The enclosed Application for Federal Assistance, C-31-L-1, Odello East Floodplain Restoration Project, Monterey County, CA, is approved effective January 4, 2010, with a total Federal share in the amount of \$925,000. The performance period of this award is January 4, 2010, through December 31, 2013.

**Terms of Acceptance:** Per <http://www.doi.gov/pam/TermsandConditions.html>, acceptance of a Federal Financial award from the Department of the Interior (DOI) carries with it the responsibility to be aware of, and comply with the terms and conditions of the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to, and as approved by DOI and are subject to the terms and conditions incorporated either directly or by reference to the following:

- Program legislation/regulation.
- Special terms and conditions.
- Code of Federal Regulations/Regulatory Requirements, as applicable

43 CFR 12(A) Administrative and Audit Requirements and Cost Principles for Assistance Programs

43 CFR 12(B) Buy American Requirements for Assistance Programs

TAKE PRIDE  
IN AMERICA

43 CFR 12(C) Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

43 CFR 12(F) Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, other Non-Profit and Commercial Organizations

43 CFR 43 Governmentwide Requirements for a Drug-Free Workplace

43 CFR 42 Governmentwide Debarment and Suspension (Nonprocurement)

43 CFR 18 New Restrictions on Lobbying

Interim Guidance for Financial Status and Performance Reporting, dated May 12, 2009

**Special Conditions and Provisions for land acquisition:**

- Cost accounting is required at the Grant level.
- USFWS must receive: (a) annual interim financial status reports and annual interim performance reports; and (b) final financial status reports and performance reports no later than 90 days after the expiration or termination of grant support.
- This project needs additional review and environmental compliance in order to conduct the earth moving activities proposed. Only the land acquisition, project design and permitting, monitoring and surveys, and project management are funded at this time. Up to \$216,000 may be drawn for the aforementioned activities. The remaining funds, (\$709,000) are not released until environmental compliance is completed per the paragraphs below, and the Wildlife and Sport Fish Restoration Program (WSFR). Grant Management Specialist has informed the grantee in writing that they may continue.
- Although the grant funds to be used in the earth moving and restoration portion of the project will not be used to work in the streambed or in any listed species habitat, analysis must be completed and any necessary permits (ESA, ACOE, RWQCB etc) must be acquired prior to being able to draw funding for this portion of the project. The grantee will provide copies of the permits and/or documentation to the WSFR Office before any funds for the earth moving and restoration planting can be drawn.
- Part of the project is post project restoration and water quality monitoring. Since it is unknown, if any listed or candidate species will repopulate the restored areas during the term of this grant; if a listed or candidate species is encountered during monitoring, then monitoring shall cease in that area until the grantee/subgrantee have consulted with the USFWS Ventura Field Office and received any needed authorization or permits to continue. Any permits required to continue monitoring and surveys shall be provided to the WSFR Grant Management Specialist.

-There will be no in-stream work undertaken using funds from this grant. Therefore, there would be No Effect to steelhead. However, if this situation were to change, as evidenced by the ongoing monitoring, the grantee/subgrantee will cease the activity until consulting with NOAA and providing the necessary documentation to the WSFR Office.

-The grantee/subgrantee will consult with the State Historic Preservation Office prior to conducting the earth-moving activities planned for this project. Prior to releasing the funding for the earthmoving activities, the WSFR Office must be provided with documentation that the SHPO consultation has been completed and any conditions have been complied with.

- Prior to acquiring the donated nonfederal match property, the following conditions must be completed:

1. A certified appraiser must conduct an appraisal that meets Federal land acquisition standards. Specifically the appraisal must comply with the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA). This must occur for the property you plan to encumber as non-Federal land match for the Federal grant share.
2. Following the appraisal, an appraisal review is required. The appraisal review may be provided by your agency, by contract, or through agreement with another state agency. Only a certified or licensed review appraiser may conduct the review appraisal. If you do not have access to a certified or licensed review appraiser the WSFR office can coordinate with the Office of Valuation Services (OVS) to conduct the review appraisal for your agency. Please be aware that workload issues in the OVS may affect the timeliness of the appraisal review. At least 90-days will be required to obtain a review by OVS.
3. The appraisal and review appraisal documents must be submitted to the WSFR office for review and approval prior to drawing the funds for which this property is the nonfederal match.
4. The deed of the nonfederal match properties shall be encumbered to ensure that the land will be managed, in perpetuity, to maintain the coastal wetland values consistent with the goals and objectives of this grant. Evidence of such shall be included as part of the final report.

Please contact me or Becky Miller at (916) 978-6185 if you have any questions.

Sincerely,



Susan Detwiler, Chief  
Wildlife & Sport Fish Restoration Program

Cc: Sean Williamson, State Coastal Conservancy, Oakland, CA



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Pacific Southwest Region  
Wildlife & Sport Fish Restoration Program  
2800 Cottage Way, W-1729  
Sacramento, California 95825



In Reply Refer To:  
FWS/R8/WSFR

Ms. Kate Goodnight  
State Coastal Conservancy  
1330 Broadway, Suite 1300  
Oakland, California 94612

January 16, 2014

Subject: Notice of Federal Assistance Award for F10AP00825 (C-31-L-1) Amendment 1

Dear Ms. Goodnight:

The enclosed Application for Federal Assistance, F10AP00825, Amendment 1, FY 2010, Coastal Wetland, Odello East Floodplain Restoration Project, request for time extension is approved effective December 16, 2013. The performance period of this award is January 4, 2010, through December 31, 2018.

**Terms of Acceptance:**

Per [http://www.doi.gov/pam/programs/financial\\_assistance/TermsandConditions.cfm](http://www.doi.gov/pam/programs/financial_assistance/TermsandConditions.cfm), acceptance of a Federal Financial award from the Department of the Interior (DOI) carries with it the responsibility to be aware of and comply with the terms and conditions of the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to, and as approved by DOI and are subject to the terms and conditions incorporated either directly or by reference to the following:

- Program legislation/regulation.
- Special terms and conditions.
- Code of Federal Regulations/Regulatory Requirements, as applicable

2 CFR 25 – Central Contractor Registration and Data Universal Numbering System

2 CFR 170 – Reporting Sub-awards and Executive Compensation

2 CFR 1400 – Government wide Debarment and Suspension (Non-procurement)

2 CFR 175 -- Trafficking Victims Protection Act of 2000

43 CFR 12(A) Administrative and Audit Requirements and Cost Principles for Assistance Programs

43 CFR 12(E) Buy American Requirements for Assistance Programs

43 CFR 12(C) Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

43 CFR 12(F) Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, other Non-Profit and Commercial Organizations

43 CFR 43 Governmentwide Requirements for a Drug-Free Workplace

43 CFR 42 Governmentwide Debarment and Suspension (Nonprocurement)

43 CFR 18 New Restrictions on Lobbying

305 DM 3 Integrity of Scientific and Scholarly Activities

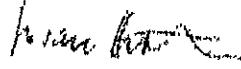
Interim Guidance for Financial Status and Performance Reporting, dated May 12, 2009

**Special Provisions and Conditions:**

- All provisions and conditions previously identified and listed for this grant shall remain in effect with this amendment.
- Annual Federal Financial Reports (SF425) and Performance Reports will be due June 29, 2014, and on that date every year until the completion of the grant. Final Reports will be due 90 days from the ending date of the grant (Due: March 31, 2019). For further information regarding reporting requirements and sanctions please see the reporting guidance issued May 12, 2009 in the Wildlife and Sport Fish Restoration Toolkit located at:  
<http://wsfrprograms.fws.gov/subpages/toolkitfiles/intgdrpt.pdf>
- Under the terms and conditions of this award, your organization must maintain an active SAM registration until the final financial report is submitted or final payment is received, whichever is later. If your organization's SAM registration expires during the required period, the U.S. Fish & Wildlife Service will suspend payment under this and all other Service awards to your organization until you update your organization's SAM registration.
- Your organization's CCR registration is set to expire on December 18, 2014. Under the terms and conditions of this award, your organization is required to maintain an active CCR registration throughout the entire approved award period.

Please contact me or Bari Prose at (916) 978-6152 if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Susan K. Detwiler", with a stylized flourish at the end.

Susan K. Detwiler, Chief  
Wildlife & Sport Fish Restoration Program

Enclosure: SF424 and Grant Narrative





## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Pacific Southwest Region  
Wildlife & Sport Fish Restoration Program  
2800 Cottage Way, W-1729  
Sacramento, California 95825



In Reply Refer to:  
FWS/R8/WSFR

August 16, 2017

Mr. Thomas Gandesbery, Project Manager  
California State Coastal Conservancy  
1515 Clay Street, 10<sup>th</sup> Floor  
Oakland, California 94612-1401  
DUNS: 808322408

Subject: Notice of Amendment to Grant Award for **FBMS# F10AP00825 (C-31-L-1)**  
**Amendment 2**

Dear Mr. Gandesbery:

Your organization's application for Federal financial assistance amendment titled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project (previously Odello East Floodplain Restoration Project)" submitted to the U.S. Fish and Wildlife Service (Service)'s CFDA Program 15.614 is approved effective March 21, 2017. This award is amended as follows: time extension, modify scope, budget and match.

The performance period of this award is January 4, 2010 through December 31, 2019. Only allowable costs resulting from obligations incurred during the performance period and any authorized pre-award costs may be charged to this award. All obligations incurred under the award must be liquidated no later than 90 calendar days after the end of the performance period, unless the Service approves a final financial reporting period extension (see Reporting Requirements section below). If you need more time to complete project activities, you must submit a written request to [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov) before the end of the stated performance period.

### **Payments:**

Your organization has completed enrollment in U.S. Treasury's Automated Standard Application for Payment (ASAP) system

([https://www.fiscal.treasury.gov/fsservices/gov/pmt/asap/asap\\_home.htm](https://www.fiscal.treasury.gov/fsservices/gov/pmt/asap/asap_home.htm)). When requesting payment in ASAP, your Payment Requestor will be required to enter an Account ID (see table below). The number assigned to this award is the partial Account ID in ASAP. When entering the Account ID in ASAP, the Payment Requestor should enter the award number identified in the subject line on letter followed by a percent sign (%). Refer to the ASAP.gov Help menu for detailed instructions on requesting payments in ASAP.

Use the information below to identify your award funds at: <https://www.asap.gov>

ASAP Accounting Information		FY/Funding Title	Federal Share	% of Federal Share	State Share	% of State Share	Total Award
PT0AP00825-0001-0000	Orig	Coastal Wetland	925,000	14%	5,472,100	86%	6,397,100
	Amd 1	Time Ext only					
	Amd 2	Time Ext, Scope & Match Chg		75%	(5,163,767)	25%	(5,163,767)
<b>Totals:</b>			<b>\$925,000</b>	<b>75%</b>	<b>\$308,333</b>	<b>25%</b>	<b>\$1,233,333</b>

**Terms of Acceptance:**

Acceptance of a financial assistance award (i.e., grant or cooperative agreement) from the Service carries with it the responsibility to be aware of and comply with the terms and conditions applicable to the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to and approved by the Service. Awards are subject to the terms and conditions incorporated into the notice of award either by direct citation or by reference to the following: Federal regulations; program legislation or regulation; and special award terms and conditions. The terms and conditions of Service awards flow down to subrecipients and contractors, unless a particular award term or condition specifically indicates otherwise. The Federal regulations applicable to Service recipients and their subrecipients and contractors are listed by recipient type in the **Service Financial Assistance Award Terms and Conditions** posted on the Internet at <http://www.fws.gov/grants/atc.html>. If you do not have access to the Internet and require a printed copy of the award terms and conditions, contact the Service Project Officer identified below.

If Recipient decides to not accept this award, Recipient must notify the Service Project Officer in writing within 30 calendar days of that decision.

**Special Conditions and Provisions:**

- Your organization's CCR registration is set to expire on May 30, 2018. Under the terms and conditions of this award, your organization is required to maintain an active CCR registration throughout the entire approved award period.
- All provisions and conditions previously identified and listed for this grant shall remain in effect with this amendment.
- This grant may not be extended beyond December 31, 2019.
- This project requires additional review and completion of environmental compliance prior to project implementation. As such, \$500,000 for project implementation is not approved to be drawn until such compliance has been completed and you are notified in writing from us that you may draw these funds. However, up to \$425,000 may be drawn for environmental review, planning, and project management.

**Reporting Requirements:**

Report Title	Report Period:	Due Date
Interim Federal Financial Report (SF-425)	01/04/2010-03/31/2018	06/29/2018
Interim Performance Report	01/04/2010-03/31/2018	06/29/2018
Interim Federal Financial Report (SF-425)	01/04/2010-03/31/2019	06/29/2019
Interim Performance Report	01/04/2010-03/31/2019	06/29/2019
Final Federal Financial Report (SF-425)	01/04/2010-12/31/2019	03/30/2020
Final Performance Report	01/04/2010-12/31/2019	03/30/2020

All Reports should be sent to [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov).

Recipients must use the Standard Form (SF) 425, *Federal Financial Report* form for all financial reporting. This form is available at <http://www.grants.gov/web/grants/forms/post-award-reporting-forms.htm#sortby=1> or Wildlife and Sport Fish Restoration Toolkit located at: <http://fawiki.fws.gov/display/WTk/Toolkit+Homepage>.

Performance reports must contain: 1) a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work; 2) a description of reasons why established goals were not met, if appropriate; and 3) any other pertinent information relevant to the project results. Please include the Service award number provided in the subject line of this letter on all reports.

Financial and performance reporting due dates may be extended by the Service upon receipt of a written request addressed to the Service at [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov) identifying the type of report to be extended, the requested revised due date, and a justification for the extension. The Service may approve an additional extension if justified by a catastrophe that significantly impairs the recipient's operations. Requests for reporting due date extensions must be received by the Service no later than one day before the original reporting due date.

**System for Award Management (SAM) Registration:** Under the terms and conditions of this award, your organization must maintain an active SAM registration at <https://www.sam.gov/portal/public/SAM/> until the final financial report is submitted or final payment is received, whichever is later. If your organization's SAM registration expires during the required period, the Service will suspend payment under this and all other Service awards to your organization until you update your organization's SAM registration.

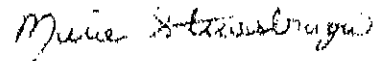
**Project Contacts:**

The Service Project Officer for this award is:	The Recipient Project Officer for this award is:
Justin Cutler, Grant Management Specialist Phone: (916) 414-6457 Cell: (916) 768-2336 Email: <a href="mailto:justin_cutler@fws.gov">justin_cutler@fws.gov</a>	Thomas Gandesbery, Project Manager Phone: (510) 286-7028 Email: <a href="mailto:tgandesbery@scc.ca.gov">tgandesbery@scc.ca.gov</a>

Please contact Justin Cutler with any questions. Please include the Service award number provided in the subject line of this letter in all written communications.

Thank you for your interest and efforts in supporting conservation for fish and wildlife and their habitats.

Sincerely,

A handwritten signature in cursive script that reads "Marie Strassburger".

Marie Strassburger  
Chief

Enclosure: SF424, purpose