



# Monterey County

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## Board Report

Legistar File Number: A 18-045

February 27, 2018

**Introduced:** 2/16/2018

**Version:** 1

**Current Status:** Consent Agenda

**Matter Type:** BoS Agreement

- a. Approve Amendment No. 2 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) to include additional services for the comprehensive evaluation of Project alternatives and potential impacts to complete the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, in Carmel, to increase the not to exceed amount by \$56,000 for a total amount not to exceed \$1,169,987, and to extend the expiration date for approximately eighteen (18) months for a revised term of April 13, 2016 to December 31, 2019; and
- b. Approve Amendment No. 1 to Reimbursement Agreement No. A-13086 with The Big Sur Land Trust (BSLT), a California nonprofit public benefit corporation, to allow reimbursement to Monterey County for costs incurred by Whitson under Professional Services Agreement No. A-13085 as amended, to increase the not to exceed amount by \$56,000 for a total amount not to exceed \$636,000 with no extension to the term of April 14, 2016 until full reimbursement; and
- c. Approve Amendment No. 4 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc. (DD&A) to include additional biological surveys and complete environmental review of the CRRFREE Project, in Carmel, to increase the not to exceed amount by \$187,488 for a total amount not to exceed \$562,727, and to extend the expiration date for approximately eighteen (18) months for a revised term of July 29, 2014 to December 31, 2019; and
- d. Approve a Reimbursement Agreement with BSLT, a California nonprofit public benefit corporation, to allow reimbursement to Monterey County for costs incurred by DD&A under Professional Services Agreement No. A-12775 as amended, in the amount not to exceed \$187,488, for a term effective upon latest date of signature until full reimbursement; and
- e. Authorize the Resource Management Agency Director to execute Amendment No. 2 to Professional Services Agreement No. A-13085 with Whitson and associated Amendment No. 1 to Reimbursement Agreement No. A-13086 with BSLT, and Amendment No. 4 to Professional Services Agreement No. A-12775 with DD&A and associated Reimbursement Agreement with BSLT, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.

### RECOMMENDATIONS:

It is recommended that the Board of Supervisors:

- a. Approve Amendment No. 2 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) to include additional services for the comprehensive evaluation of Project alternatives and potential impacts to complete the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, in Carmel, to increase the not to exceed amount by \$56,000 for a total amount not to exceed \$1,169,987, and to extend the expiration date for approximately eighteen (18) months for a revised term of April 13, 2016 to December 31, 2019; and

- b. Approve Amendment No. 1 to Reimbursement Agreement No. A-13086 with The Big Sur Land Trust (BSLT), a California nonprofit public benefit corporation, to allow reimbursement to Monterey County for costs incurred by Whitson under Professional Services Agreement No. A-13085 as amended, to increase the not to exceed amount by \$56,000 for a total amount not to exceed \$636,000 with no extension to the term of April 14, 2016 until full reimbursement; and
- c. Approve Amendment No. 4 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc. (DD&A) to include additional biological surveys and complete environmental review of the CRFREE Project, in Carmel, to increase the not to exceed amount by \$187,488 for a total amount not to exceed \$562,727, and to extend the expiration date for approximately eighteen (18) months for a revised term of July 29, 2014 to December 31, 2019; and
- d. Approve a Reimbursement Agreement with BSLT, a California nonprofit public benefit corporation, to allow reimbursement to Monterey County for costs incurred by DD&A under Professional Services Agreement No. A-12775 as amended, in the amount not to exceed \$187,488, for a term effective upon latest date of signature until full reimbursement; and
- e. Authorize the Resource Management Agency Director to execute Amendment No. 2 to Professional Services Agreement No. A-13085 with Whitson and associated Amendment No. 1 to Reimbursement Agreement No. A-13086 with BSLT, and Amendment No. 4 to Professional Services Agreement No. A-12775 with DD&A and associated Reimbursement Agreement with BSLT, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.

SUMMARY:

The Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project will improve flood control, restore native riparian and floodplain habitat, and hydrologic function to a portion of the lower floodplain along the Carmel River. Big Sur Land Trust (BSLT) is an implementing partner and co-sponsor with the County on the CRFREE Project. Because of on-going coordination with adjacent landowners and regulatory agencies, the Environmental Document (ED) process has been delayed and additional technical and alternatives analysis, biological studies, and resulting updates to the environmental documentation are needed. Additional time and funding are necessary to allow for the services identified as necessary for the comprehensive evaluation of Project alternatives and potential impacts.

Amendment No. 2 to Professional Service Agreement (PSA) No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) and Amendment No. 1 to the Reimbursement Agreement (RA) No. A-13086 with BSLT, will provide engineering services for the environmental review of the CRFREE Project. Amendment No. 2 to the PSA with Whitson is to increase the not to exceed amount of \$1,113,987 by \$56,000 for a total amount not to exceed of \$1,169,987, for a term of April 13, 2016 to December 31, 2019. Amendment No.1 to the RA with BSLT to increase the not to exceed amount of \$580,000 by \$56,000 for a total amount not to exceed \$636,000, for a term effective upon latest date of signature until full reimbursement.

Amendment No. 4 to PSA No. A-12775 with Denise Duffy and Associates, Inc. (DD&A) and the RA with BSLT will allow for completion of environmental review of the CRFREE Project. The amended PSA with DD&A is to increase the not to exceed amount of \$375,239.25 by \$187,488 for a total amount not to exceed \$562,727.25, for a term of July 29, 2014 through December 31, 2019.

The total RA not to exceed amount with BSLT is \$187,488, for a term effective upon latest date of signature until full reimbursement.

DISCUSSION:

The CRFREE Project will improve flood control, restore native riparian and floodplain habitat, and hydrologic function to a portion of the lower floodplain along the Carmel River. The proposed Project consists of two (2) interdependent Project components: Floodplain

Restoration and Causeway. The proposed Floodplain Restoration Component consists of: (1) remove approximately 1,470 linear feet of non-structural earthen levees on the south side of the Carmel River channel; (2) grading on approximately 100 acres to restore the site's ecological function as a floodplain by creating the hydrogeomorphic characteristics necessary to support floodplain restoration activities; (3) grading to elevate approximately 23 acres of existing farmland above the 100-year floodplain elevation to create an agricultural preserve; and (4) implementation of a Restoration Management Plan (RMP).

The proposed Causeway Component consists of replacing a portion of the State Route (SR) 1 roadway embankment with a 360-foot long causeway section to accommodate flood flows that enter the south overbank area as a function of the removal of portions of the levees as described above and to restore hydrologic connectivity between the Project site and the Carmel Lagoon. The Project would result in the reconnection and restoration of approximately 100 acres of historic floodplain.

BSLT is an implementing partner and co-sponsor with the County on the CRFREE Project. Pursuant to this relationship, BSLT and the County have agreed to coordinate all planning, development, permitting, and construction activities for the CRFREE Project. The County is the Lead Agency for California Environmental Quality Act (CEQA). Because of on-going coordination with adjacent landowners and regulatory agencies, the environmental review process has been delayed and additional technical and alternatives analysis, biological studies, and resulting updates to the environmental analysis are needed. Additional time and funding are necessary to allow for the services identified as necessary for the comprehensive evaluation of Project alternatives and potential impacts.

A Draft CEQA and National Environmental Protection Act (NEPA) document is anticipated to circulate for public review this summer. If the project is approved, the updated implementation schedule anticipates construction to start in the second half of 2020, and to last for approximately twelve (12) to eighteen (18) months. The Caltrans review process for the ED for the Causeway Component and right of way work are anticipated to have the most significant impact on the project timelines.

*Whitson - Design & Engineering Services*

A PSA between Whitson and the County, approved by the Board of Supervisors (BOS) on April 12, 2016 provides for final design services to be completed for the CRFREE Project. Funding for a portion of the design activities for the CRFREE Project is being provided through a Wildlife Conservation Board (WCB) Grant held by the BSLT. This WCB Grant is non-transferrable. The County and BSLT have entered into a RA, approved by the BOS on April 12, 2016, to allow BSLT to reimburse the County for services provided by Whitson for the CRFREE Project.

Amendment No. 2 to PSA No. A-13085 with Whitson and Amendment No. 1 to RA No. A-13086 with BSLT, will provide engineering services for the environmental review of the CRFREE Project. Amendment No. 2 to the PSA with Whitson is to increase the not to exceed amount of \$1,113,987 by \$56,000 for a total amount not to exceed of \$1,169,987, for a term of April 13, 2016 to December 31, 2019. Funding for a portion of the engineering support services for the environmental review of the CRFREE Project is being provided through a California State Coastal Conservancy (Conservancy) Grant held by BSLT. The Conservancy Grant is non-transferrable. The County and BSLT are amending the RA, approved by the BOS on April 12, 2016, to allow BSLT to reimburse the County for additional engineering support services for the environmental review provided by Whitson for the CRFREE Project with funds from the Conservancy Grant. Amendment No.1 to the RA with BSLT to increase the not to exceed amount of \$580,000 by \$56,000 for a total amount not to exceed \$636,000, for a term effective upon latest date of signature until full reimbursement.

#### *DD&A Environmental Services*

Amendment No. 4 to PSA No. A-12775 with DD&A and the RA with BSLT will allow for completion of environmental review of the CRFREE Project. The amended PSA with DD&A will increase the not to exceed amount of \$375,239.25 by \$187,488 for a total amount not to exceed \$562,727.25, for a term of July 29, 2014 through December 31, 2019. The County and BSLT are entering into a RA to allow BSLT to reimburse the County for additional biological services and to complete the environmental review by DD&A for the CRFREE Project with funds from the California State Coastal Conservancy (SCC) Grant. The total RA not to exceed amount with BSLT is \$187,488, for a term effective upon latest date of signature until full reimbursement.

#### OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller's Office have reviewed and approved the Amendment No. 2 to PSA No. A-13085, Amendment No. 1 to RA No. A-13086, Amendment No. 4 to PSA No. A-12775 and the RA as to form and legality, and fiscal provisions, respectively.

#### FINANCING:

The total amount spent to date by the County for the CRFREE Project (excluding RMA staff time) is \$959,786: \$593,932 for design and engineering services provided by Whitson; \$345,030.69 for environmental services provided by DD&A; and \$20,823 for cost-benefit analysis provided by Balance Hydrologics, Inc. The total estimated cost to implement the CRFREE Project, including BSLT managed funds and activities since 2007 is \$27,588,337:

TASK	COST	FUNDED BY
<u><i>BSLT Managed Funds &amp; Activities since 2007</i></u>		
Feasibility to 35% Design	\$ 1,069,800	Grants (held by BSLT)
BSLT Staff Time	\$ 575,000	Grants, BSLT
<u><i>County Managed Funds and Activities 2012 Onward</i></u>		
Cost-Benefit Analysis	\$ 20,823	Fund 001 Unit 8172 (FY 2015-16)
Environmental Document	\$ 562,727	Grants, RA, Fund 001 Unit 8172 (FY 2015-16), TBD
Design and Engineering	\$ 1,169,987	Grants, RA, CSA23

Permitting	\$	50,000	TBD
RMA Design Review	\$	50,000	TBD
Construction	\$24,090,000	Grants, RA, TBD	
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TOTAL	\$27,588,337		

Funding has been secured and/or committed by various grants and funding sources totaling \$14,318,337 for the CRFREE Project costs as described above. Of the total funded/secured, the County holds a \$5,000,000 grant from the Department of Water Resources and the remaining funds are in contract through the BSLT or have been committed but are not yet under contract with either entity. There is a total funding gap of \$13,270,000 to complete the project. County and BSLT continue to develop a funding strategy and apply for grants to close the funding gap.

There is no anticipated impact long-term to the General Fund because of approving the proposed amendments to existing agreements and new RA. There is sufficient funding in the FY 2017-18 adopted budget, Facilities Master Plan Projects Fund 404-3000-8174-RMA015, to cover anticipated expenditures.

#### *Whitson Design & Engineering Services*

Pursuant to the terms of the RA, a portion of the CRFREE Project design expenses to be incurred through the Whitson PSA, not to exceed \$636,000, will be reimbursed by BSLT to the County. Whitson will submit invoices to the County for payment, which will result in a temporary impact to the General Fund. For the portion of the Whitson PSA covered by the Amendment No. 1 to the RA, the County in turn will submit approved invoices to BSLT, who will reimburse the County within ten (10) working days.

#### *DD&A Environmental Services*

Pursuant to the terms of the RA, a portion of CRFREE Project environmental expenses to be incurred through the DD&A PSA, not to exceed \$187,488, will be reimbursed by BSLT to the County. DD&A will submit invoices to the County for payment, which will result in a temporary impact to General Fund. For the portion of the DD&A PSA covered by the RA, the County in turn will submit approved invoices to BSLT, who will reimburse the County within ten (10) working days.

In addition to the \$187,488 for Amendment No. 4 to the DD&A PSA, there is a remaining \$30,208.56 balance for a total remaining (unspent) PSA amount of \$217,696.56 for DD&A to complete the environmental review process. This \$30,208.56 balance is unfunded now. This balance was anticipated to be funded from General Fund 001-3000-8172-RMA001 in prior fiscal years, however, due to delays in the environmental documentation process, these funds are no longer available. Amendment No. 4 to the DD&A PSA includes Optional Task 3.9 for \$70,000 to be used for additional services needed including, but not limited to, an Environmental Impact Statement (EIS) if deemed necessary by the USFWS as the NEPA Lead Agency. Staff is hopeful that the USFWS will determine that an EIS is not necessary and there may be cost savings for Optional Task 3.9; the BSLT will be able to reimburse the remaining (or a portion of) \$30,208.56 with the cost savings.

*Closing the Funding Gap*

The County and BSLT continue to apply for grants to close the remaining funding gap. It is anticipated that \$80,000 will be needed in FY 2018-19 for permit fees (\$50,000) and RMA design review (\$30,000 - which is not eligible for Road Fund monies). In the current fiscal year \$50,086 funds were provided from unused Capital Projects Fund 401 monies to cover RMA design review costs, however, due to delays in the project it is anticipated that only approximately \$10,000 of those monies will be expended. The remaining design review costs are anticipated in FY 2018-19. However, it is unlikely potential grant funding will be available in FY 2018-19 to fund these needs. On-going delays to the project threaten our ability to retain existing secured grant funding. To prevent delays (and risk loss of funds), staff is preparing a budget augmentation request of \$80,000 for FY 2018-19 to cover these expenses.

BOS STRATEGIC INITIATIVES:

Amendment No. 2 to PSA No. A-13085 with Whitson, Amendment No. 1 to RA No. A-13086 with BSLT, Amendment No. 4 to PSA No. A-12775 with DD&A, and the RA with BSLT help facilitate completion of the CRFREE Project which could positively impact the revenue base and quality of life by protecting the developments north of the lower Carmel River. Additionally, this action represents effective and timely response to Resource Management Agency customers.

     Economic Development

  X   Administration

Health & Human Services

  X   Infrastructure

  X   Public Safety

Prepared by:     Melanie Beretti, RMA Special Programs Manager, (831) 755-5285

Approved by:     Carl P. Holm, AICP, RMA Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Amendment No. 2 to PSA with Whitson

Attachment B - Amendment No. 1 to RA with BSLT (Whitson)

Attachment C - Amendment No. 4 to PSA with DD&A

Attachment D - RA with BSLT (DD&A)

Attachment E - Amendment No. 1 to PSA with Whitson

Attachment F - PSA with Whitson

Attachment G - RA with BSLT (Whitson)

Attachment H - Amendment No. 3 to PSA with DD&A

Attachment I - Amendment No. 2 to PSA with DD&A

Attachment J - Amendment No. 1 to PSA with DD&A

Attachment K - PSA with DD&A

Attachment L - Timeline of PSA with Whitson

Attachment M - Timeline of RA with BSLT (Whitson)

Attachment N - Timeline of PSA with DD&A