



Board Report

File #: A 23-333, Version: 2

- a. Approve Amendment 8 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement Project (REF 140048), to increase the Agreement amount of \$2,202,228 by \$144,851 for a total not to exceed amount of \$2,347,079, and extend the Agreement by twelve (12) months to December 31, 2024;
- b. Approve Amendment No. 8 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc., to increase the Agreement amount of \$776,448 by \$25,860 for a total not to exceed amount of \$802,308 to allow the completion of tasks, and to extend the term an additional twelve (12) months to December 31, 2024; and
- c. Authorize the Contracts/Purchasing Officer or Contractors/Purchasing Supervisor to execute Amendment No. 8 to Professional Services Agreement No. A-13085 with Whitson Engineers, and Amendment No. 8 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc., and future amendments to these Agreements where the amendments do not significantly alter the scope of work as determined by the Director of the County of Monterey Department of Housing and Community Development (HCD) or Interim Director of HCD or designee or exceed the approved aggregate agreement amounts by more than 10% (\$234,714 and \$80,231, respectively) for each amendment, subject to approval as to form by the Office of the County Counsel.

PRIOR CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) ACTION:

Approval of contract amendments is not a Project under CEQA. The Environmental Impact Report for the CRFREE Project was certified by the Board of Supervisors on January 20, 2020. The CRFREE Project was approved, and the corresponding Mitigation Monitoring and Reporting Program was adopted by the Board of Supervisors on June 15, 2021.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Amendment 8 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement Project (REF 140048), to increase the Agreement amount of \$2,202,228 by \$144,851 for a total not to exceed amount of \$2,347,079, and extend the Agreement by twelve (12) months to December 31, 2024;
- b. Approve Amendment No. 8 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc., to increase the Agreement amount of \$776,448 by \$25,860 for a total not to exceed amount of \$802,308 to allow the completion of tasks, and to extend the term an additional twelve (12) months to December 31, 2024; and
- c. Authorize the Contracts/Purchasing Officer or Contractors/Purchasing Supervisor to execute Amendment No. 8 to Professional Services Agreement No. A-13085 with Whitson Engineers, and Amendment No. 8 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc., and future amendments to these Agreements where the amendments do not significantly alter the scope of work as determined by the Director of the County of Monterey Department of Housing and Community Development (HCD) or Interim Director of HCD or designee or exceed the approved aggregate agreement amounts by more than 10% (\$234,714 and \$68,859, respectively) for each amendment, subject to approval as to form by the Office of the

County Counsel.

SUMMARY/DISCUSSION:

The Carmel River Floodplain Restoration and Environmental Enhancement Project (CRFREE Project) is a comprehensive effort to improve flood control and restore native riparian habitat, floodplain habitat, and hydrologic function to a portion of the lower floodplain along the Carmel River. Key aspects of the CRFREE Project are to: 1) Create notches in the levees along the south bank of the lower Carmel River, 2) Restore the south lower Carmel River floodplain, and 3) Build a causeway along Highway 1, restoring connectivity between the lower Carmel River Floodplain and the south arm of the Carmel Lagoon. The Environmental Impact Report (EIR) was approved in January 2020, and the Project and Mitigation Monitoring and Reporting Plan (MMRP) was approved by the Board of Supervisors in June 2021.

Amendments are necessary to both the Whitson Engineers (Whitson) and Denise Duffy & Associates, Inc. (DDA) Professional Services Agreements (PSAs) to further extend the term and increase funds for the completion of tasks during ongoing delays in the CRFREE Project due to the ongoing Federal Emergency Management Agency's (FEMA) environmental review process. Attachment A provides a summary of the PSAs with DDA and Whitson. In 2022 the CRFREE Project design was phased into two implementation phases due to the need to expend State grant funds before they sunset at the end of 2025. Phase 1 will include grading and restoration planting on the east side of State Route 1 (SR 1), and construction of the Agricultural Preserve, and is scheduled to begin in 2024. Phase 2 will include the causeway construction, levee notches, and remaining restoration work primarily on the west side of SR 1 and is scheduled to begin in 2025. All necessary permits and agreements are in place to begin Phase 1 construction, pending the completion of the FEMA Environmental Assessment. FEMA has published the notice of intent to publish the Environmental Assessment and is waiting on the completion of consultation between the State Historic Preservation Office (SHPO) and the US Army Corps of Engineers (USACE) on behalf of the Carmel Area Wastewater District's (CAWD) pipeline undergrounding project. CAWD's pipeline undergrounding project is a mitigation measure for CRFREE. While this decision is pending, the CRFREE Project partners and consultants are moving forward with final pre-construction preparations for Phase 1 and Phase 2 work.

On April 14, 2016, the Board of Supervisors approved PSA A-13085 with Whitson. An update in scope and budget to the Whitson PSA is necessary to continue work on the CRFREE Project to bring it to the Phase 1 construction scheduled for 2024. The proposed Amendment No. 8 to the PSA will add funds to existing tasks for the purpose of finishing restoration, causeway, well design, and utility relocation coordination in preparation of construction beginning in 2024. If approved, Amendment No. 8 will increase the not-to-exceed amount by \$144,851 for a total not to exceed amount of \$2,347,079.

On July 29, 2014, the Board of Supervisors approved PSA No. A-12775 with DDA to provide environmental documentation, California Environmental Quality Act (CEQA)/National Environmental Protection Act (NEPA), and regulatory permitting for the CRFREE Project. An amendment to the DDA PSA is necessary to extend the term and add funds for ongoing coordination meetings. Approval of this amendment will increase the funds allocated to Task 6.2: County Staff/Consultants Permit Mtgs. Amendment No. 8 will increase the PSA by \$25,860 for a total amount not to exceed of \$802,308 to allow the completion of tasks, and to extend the term an additional twelve months for a term from July 29, 2014, to December 31, 2024.

OTHER AGENCY INVOLVEMENT:

The Big Sur Land Trust (BSLT) is co-sponsor for the CRFREE Project. Through a cooperative agreement with Caltrans, the County of Monterey is acting as the CEQA Lead Agency for the Project.

ENVIRONMENTAL REVIEW

Approval of contract amendments and grant agreements is not a Project under CEQA. Environmental review is complete for the CRFREE Project. The Project EIR was certified pursuant to CEQA by the Board of Supervisors of the County of Monterey (Board) during a public hearing on January 20, 2020. The Project was approved by the Board on June 15, 2021. The U.S. Fish and Wildlife Service, as lead federal agency for the floodplain restoration portion of the Project, issued a finding of no significant impact (FONSI) pursuant to the National Environmental Policy Act (NEPA) on October 30, 2020. Federal NEPA review was completed on April 23, 2021 when Caltrans, as the lead federal agency for the causeway portion of the Project, issued a FONSI for the Project.

FINANCING:

Costs for Whitson and DDA contracts are reimbursed from the Department of Water Resources (DWR) Flood Corridor and Wildlife Conservation Board grants. Funds from the California State Coastal Conservancy grant may be utilized to pay for pre-construction tasks. Attachment X further outlines CRFREE grant funding. Based on the November 2022 90% Design Engineer’s estimate, CRFREE is expected to cost approximately \$54.6 million to complete the final design, construction, and restoration efforts and will be entirely grant funded. The County has been awarded \$17.2 million in unexpended grant funds. BSLT holds nearly \$1 million in grant funds available for the project. An additional \$1 million is pending award from Caltrans. The California Governor’s Office of Emergency Services (CalOES)/FEMA expects to award the County \$29.5 million in 2023. The County and BSLT are working to raise additional funds to meet the full Project cost if necessary. CRFREE is budgeted in Capital Project Fund 404, Unit 8564.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

If approved, this action supports the Board of Supervisors’ Strategic Initiatives for Administration and Infrastructure. The Project will provide sustainable physical infrastructure and associated flood risk reduction and habitat benefits to promote the safety of area residents and visitors.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Approved by: Craig Spencer, AICP, Acting HCD Director

- The following attachments are on file with the Clerk of the Board:
- Attachment A - Summary of Whitson and DDA PSA Amendments
 - Attachment B - Amendment No. 8 to Whitson PSA
 - Attachment C - Amendment No. 7 to Whitson PSA
 - Attachment D - Amendment No. 6 to Whitson PSA
 - Attachment E - Amendment No. 5 to Whitson PSA
 - Attachment F - Amendment No. 4 to Whitson PSA
 - Attachment G - Amendment No. 3 to Whitson PSA
 - Attachment H - Amendment No. 2 to Whitson PSA
 - Attachment I - Amendment No. 1 to Whitson PSA
 - Attachment J - Whitson PSA

Attachment K - Amendment No. 8 to DDA PSA
Attachment L - Amendment No. 7 to DDA PSA
Attachment M - Amendment No. 6 to DDA PSA
Attachment N - Amendment No. 5 to DDA PSA
Attachment O - Amendment No. 4 to DDA PSA
Attachment P - Amendment No. 3 to DDA PSA
Attachment Q - Amendment No. 2 to DDA PSA
Attachment R - Amendment No. 1 to DDA PSA
Attachment S - DDA PSA
Attachment T - CRFREE grant summary