

Attachment A

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**FUNDING AGREEMENT
FOR
REY MINOR SUBDIVISION PROJECT
INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION**

THIS FUNDING AGREEMENT (“AGREEMENT”) is made and entered into by and between the County of Monterey, a political subdivision of the State of California (“County”) and Eric Rey (“PROJECT APPLICANT”) (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below and with reference to the following facts and circumstances:

RECITALS

- A. PROJECT APPLICANT has applied to the County for consideration of a two-lot residential subdivision (“Project”), PLN220339-DEP. To support the environmental analysis, the County has required the PROJECT APPLICANT to fund the preparation of an environmental document pursuant to the California Environmental Quality Act (CEQA) to analyze the proposed minor subdivision of one (1) legal lot of record (152.9 acres) which would result in a 77.5-acre parcel (Parcel A) and a 75.5-acre parcel (Parcel B).
- B. A fundamental premise of this AGREEMENT is that nothing is to be construed as a representation, promise, or commitment on the part of County to give special treatment to, or exercise its discretion favorably for, the Project, in exchange for PROJECT APPLICANT’s obligation to fund the cost of retaining CONTRACTOR.
- C. County and PROJECT APPLICANT make this AGREEMENT with full knowledge of the requirements of state and local law, including, but not limited to, the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et seq., hereafter “CEQA”) and State CEQA Guidelines (14 California Code of Regulations Section 15000 et seq., hereafter “Guidelines”) and the Monterey County Code.

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

- 1. Deposits to Fund Services and County Fee for Contract Administration
PROJECT APPLICANT shall deposit an amount equal to the base budget amount of the CONTRACTOR’s proposal for preparation of an environmental document pursuant to the California Environmental Quality Act (CEQA). This totals \$84,295 and includes:

CONTRACTOR’s Base Budget	\$73,300
County Project Management/Contract Administration	<u>10,995</u>
	\$84,295

PROJECT APPLICANT shall deposit \$84,295 with the County of Monterey, Housing and Community Development Department (HCD) upon approval of this AGREEMENT by the County of Monterey Board of Supervisors acting on behalf of the County.

PROJECT APPLICANT’s deposit of \$84,295 with the County shall be a condition precedent to the County’s obligation under this AGREEMENT.

2. Project Contingency

No project contingency is requested.

3. Maximum Budget Under AGREEMENT

The maximum amount which may be charged to PROJECT APPLICANT under this AGREEMENT is \$84,295.

CONTRACTOR’s Base Budget	\$73,300
County Contract Administration Fee (non-refundable)	10,995
Maximum Charge Under Agreement	\$84,295

4. Engagement of CONTRACTOR

CONTRACTOR shall be responsible only to the County, and nothing in this AGREEMENT imposes any obligation on the County or CONTRACTOR to PROJECT APPLICANT other than to devote the time and attention to assisting with the processing of the Project. CONTRACTOR’s contact with PROJECT APPLICANT shall only be through the County. PROJECT APPLICANT, its agents, employees, consultants, representatives, or partners shall not contact CONTRACTOR directly in any manner unless at a public hearing, meeting, or workshop for the PROJECT.

5. Payment(s) to CONTRACTOR by County

a. CONTRACTOR

CONTRACTOR’s invoices shall be paid from the Base Budget funds deposited by PROJECT APPLICANT and shall be paid in accordance with the terms of Section B of Exhibit “A” of this AGREEMENT.

Should this AGREEMENT be terminated prior to June 30, 2025, any unearned balance of the Base Budget deposited by PROJECT APPLICANT shall be returned to PROJECT APPLICANT within sixty (60) days of receipt of notice of termination by the County.

b. County Contract Administration Fee

The County Project Management/Contract Administration Fee of \$10,995 shall be paid by PROJECT APPLICANT upon approval of this Agreement by the County of Monterey. These fees are nonrefundable.

c. Project Contingency

No project contingency fee is requested.

6. Relationship to Other Charges
PROJECT APPLICANT and the County agree that the expenditures associated with this AGREEMENT are in addition to the standard development application fees approved by the County.
7. No Promise or Representation
The Parties agree that nothing in the AGREEMENT is to be construed as a representation, promise, or commitment on the part of the County to give special treatment to, or exercise its discretion favorably for the Project, it being understood that PROJECT APPLICANT's funding obligation under AGREEMENT is undertaken without regard to the County's actions regarding the Project.
8. Term
AGREEMENT shall become effective upon execution, and continue through June 30, 2025, unless terminated pursuant to Paragraph 9 of the AGREEMENT.
9. Termination
AGREEMENT shall terminate on June 30, 2025 but may be terminated earlier by PROJECT APPLICANT or the County by giving thirty (30) days' written notice to the other. Upon such termination, PROJECT APPLICANT shall immediately pay any outstanding invoices, as well as pay for any work performed by CONTRACTOR through effective date of termination.
10. 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.
11. Negotiated Agreement. It is agreed and understood by the Parties that the 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.
12. Assignment. Neither the County nor PROJECT APPLICANT 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.
13. Amendment. This AGREEMENT may be amended, modified, or supplemented only in writing by both Parties.
14. Contracting Officer. The contracting officer of the County, and the only entity authorized by law to make or amend AGREEMENT on behalf of the County, is the County of Monterey Board of Supervisors or a County employee whom they have specifically authorized.
15. 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.

16. Governing Law. AGREEMENT shall be construed, interpreted, and applied in accordance with the laws of the State of California applicable to commercial contracts entered into and to be performed wholly in California.
17. Construction. The language in all parts of the AGREEMENT shall be construed, in all cases, according to its fair meaning. The Parties acknowledge that each party has reviewed 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.
18. Relationship of Parties. The Parties agree that this AGREEMENT establishes only a funding arrangement between the Parties and that the Parties are not joint venturers or partners.
19. Indemnification. PROJECT APPLICANT agrees to defend, indemnify, and hold the County harmless in any action brought by any third party in which the authority of the County to enter into AGREEMENT or the validity of AGREEMENT is challenged.
20. 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.
21. Notices. Notice to the Parties in connection with AGREEMENT shall be given personally or by regular mail addressed as follows:

TO COUNTY: Fiona Jensen, Senior Planner
 County of Monterey
 Housing and Community Development
 1441 Schilling Place, South 2nd Floor
 Salinas, CA 93901
 (831) 755-5025
 jensenfl@co.monterey.ca.us

TO PROJECT Eric Rey
 1004 ½ Cragmont Avenue
 Berkeley, CA 94708
 (510) 508-9769
 ericrey@mac.com

Notice shall be deemed effective at the time of personal delivery or seventy-two (72) hours after mailing.

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