

Attachment B

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**AMENDMENT NO. 2
TO FUNDING AGREEMENT NO. 3
BETWEEN COUNTY OF MONTEREY AND
JEFFREY LATOURETTE**

THIS AMENDMENT NO. 2 to Funding Agreement No. 3 No. A-13654 between the County of Monterey, a political subdivision of the State of California (“County”) and Jeffrey LaTourette (“PROJECT APPLICANT”) is hereby entered into between the County and the PROJECT APPLICANT (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, PROJECT APPLICANT’s predecessor in interest, Jeffrey and Monica La Tourette, husband and wife (“PROJECT APPLICANTS”) applied to the County for a permit for a standard subdivision for the LaTourette Subdivision (hereinafter, “Project”) requiring an Environmental Impact Report (hereinafter, “EIR”);

WHEREAS, PROJECT APPLICANTS entered into Funding Agreement No. 3 No. A-13654 with County on July 25, 2017 (“Funding Agreement”) to provide funding for the EIR for the Project through June 27, 2019 for an amount not to exceed \$161,304.75;

WHEREAS, concurrent with approval of the Funding Agreement, the County approved a Professional Services Agreement (“PSA”) with Denise Duffy & Associates, Inc., (“Contractor”) to prepare the EIR for the Project;

WHEREAS, effective June 27, 2019, the PROJECT APPLICANTS executed an Agreement and Consent to Assignment of Funding Agreement No. 3, dated July 25, 2017, to assign all rights, title and interest in the agreement solely to Jeffrey LaTourette;

WHEREAS, the Funding Agreement was amended by the Parties on August 9, 2019 (“Amendment No. 1”) to extend the term by two years through June 30, 2021 with no increase in the not to exceed amount;

WHEREAS, the EIR for the Project has not been completed and is pending completion of the supporting technical analysis and evaluations;

WHEREAS, additional time and funding are necessary to allow Contractor to continue to provide services associated with the completion of the EIR for the Project, concurrently herewith, the County and Contractor have entered into Amendment No. 2 to the PSA to increase the amount payable to Contractor, as further set out in Exhibit 1B attached hereto and incorporated herein by reference;

WHEREAS, the Parties wish to further amend the Funding Agreement to extend the term for approximately two additional years to June 30, 2023 and to increase the amount by \$21,794.00 for

a total amount to exceed \$183,098.75 to provide funding to the County for the Contractor's services under the PSA as amended.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 1, "Deposits to Fund PSA and County Fee for Contract Administration", to add the following:

- 1.a. Deposits to Fund Amendment No. 2 to PSA. PROJECT APPLICANT shall deposit an amount equal to the Contractor's additional Base Budget. This amount totals \$21,794.00 and includes:

Contractor's Base Budget:	\$ 21,794.00
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PROJECT APPLICANT shall deposit a total amount of \$21,794 with County of Monterey Housing and Community Development (HCD) – Planning upon approval of this Amendment No. 2 to Agreement by the County of Monterey Board of Supervisors.

PROJECT APPLICANT's deposit of \$21,794.00 with County shall be a condition precedent to County's obligation under this Agreement as amended by this Amendment No. 2.

2. Amend Paragraph 3, "Maximum Budget Under Agreement", to read as follows:

Maximum Budget Under Agreement. The maximum amount which may be charged to PROJECT APPLICANT under this Agreement as amended by this Amendment No. 2 is \$183,098.75, which consists of the following amounts:

Contractor's Base Budget (*):	\$162,059.00
Project Contingency:	<u>\$21,039.75</u>

<u>Maximum Charge Under Agreement:</u>	<u>\$183,098.75</u>
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- * Partially funded by Project Applicant funds on deposit (\$28,787.42) with County per Funding Agreement No. 2.

3. Amend the first sentence of Paragraph 4 to read as follows:

Within thirty (30) days after the end of each quarter, County shall provide quarterly progress reports to the PROJECT APPLICANT showing Contractor's charges from the prior quarter associated with completion of task(s) as specified in "Exhibits A and A-1" of the PSA as amended (Scope of Services/Payment Provisions for the Project).

4. Amend the first sentence of Paragraph 5, “Engagement of Contractor”, to read as follows:

This Agreement as amended is based on County engaging Contractor in accordance with the PSA between County and Contractor and Amendment No. 1 and Amendment No. 2 to the PSA, attached hereto respectively as Exhibits “1”, “1A”, and “1B” and incorporated by this reference.

5. Amend the first sentence of Paragraph 6.a., “Contractor”, of Paragraph 6, “Payments to Contractor and County”, to read as follows:

Contractor’s invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$162,059.00.

6. Amend Paragraph 8, “Term”, to read as follows:

AGREEMENT shall become effective retroactive from June 27, 2017 and continue through June 30, 2023, unless terminated pursuant to Paragraph 9 or amended pursuant to Paragraph 13 of AGREEMENT.

7. Amend the first sentence of Paragraph 9, “Termination”, to read as follows:

AGREEMENT shall terminate on June 30, 2023 but may be terminated earlier by PROJECT APPLICANTS or County, by giving thirty (30) days’ written notice to the other.

8. Amend “TO COUNTY” information of Paragraph 22, “Notices”, to read as follows:

Anna V. Quenga, Planning Services Manager
County of Monterey, Housing and Community Development
Phone: (831) 755-5175
Email: QuengaAV@co.monterey.ca.us

9. All references to the Resource Management Agency (RMA) in the Agreement or Amendment No. 1 shall be understood to mean Housing and Community Development (HCD) to the extent applicable.
10. Except as amended herein, all other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force and effect.
11. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

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.

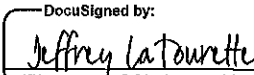
COUNTY OF MONTEREY

PROJECT APPLICANT*

By: _____
Mike Novo, AICP
Interim Director of Housing and Community
Development

JEFFREY LATOURETTE

Date: _____

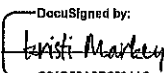
By:  _____
DocuSigned by:
Jeffrey LaTourette
(Signature of Chair, President or Vice President)

Its: Jeffrey LaTourette, Owner

(Print Name and Title)

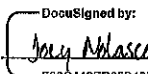
Date: 6/8/2021

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

By:  _____
DocuSigned by:
Kristi A. Markey
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Kristi A. Markey
Deputy County Counsel

Date: 6/8/2021

Approved as to Fiscal Provisions

By:  _____
DocuSigned by:
Joey Abasco
F60C442ED05B437...
Auditor/Controller

Date: 6/8/2021

**Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Manager**

By: _____
Leslie J. Girard
County Counsel-Risk Manager

Date: _____

*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) managers. 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 1B

AMENDMENT NO. 2

TO

PROFESSIONAL SERVICES AGREEMENT

NO. A13636

BETWEEN

DENISE DUFFY & ASSOCIATES, INC.

AND THE COUNTY OF MONTEREY

TO PROVIDE

AN ENVIRONMENTAL IMPACT REPORT

FOR

THE LATOURETTE SUBDIVISION PROJECT

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

THIS AMENDMENT NO. 2 to Professional Services Agreement No. A-13636 between the County of Monterey, a political subdivision of the State of California (“County”) and Denise Duffy & Associates, Inc. (“CONTRACTOR”) is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Professional Services Agreement No. A-13636 with County on July 25, 2017 (“Agreement”) to provide an Environmental Impact Report (“EIR”) for the LaTourette Subdivision Project (“Project”) through June 27, 2019 for an amount not to exceed \$161,304.75; and

WHEREAS, Agreement was amended by the Parties on August 9, 2019 (“Amendment No. 1”) to extend the term for two additional years, through June 30, 2021 and to update the indemnification provision and auto insurance requirements;

WHEREAS, the EIR for the Project has not been completed and is pending completion of the supporting technical analysis and evaluations;

WHEREAS, additional time is necessary to allow CONTRACTOR to continue to provide services associated with the completion of the EIR for the Project; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for approximately two additional years to June 30, 2023 and to increase the base budget amount by \$21,794 for a total amount not to exceed \$183,098.75 (\$162,059 base budget and \$21,039.75 project contingency) to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 2;

WHEREAS, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 2.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend Section 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 as amended shall not exceed the sum of \$183,098.75.

2. Amend the first sentence of Section 3, “Term of Agreement”, to read as follows:

The term of this Agreement is from June 27, 2017 to June 30, 2023, unless sooner terminated pursuant to the terms of this Agreement.

3. Amend Section 4, “Additional Provisions/Exhibits”, to add “Exhibit A-1, Scope of Services/Payment Provisions”.
4. Amend County information in Section 14.0 “Notices” to read as follows:

FOR COUNTY:

Shandy Carroll, Management Analyst III

County of Monterey, Housing and Community Development

Phone: (831) 784-5643

Email: 194-HCD-Contracts@co.monterey.ca.us

5. In all places within the Agreement, any reference to County’s email address of RMA-Finance-AP@co.monterey.ca.us for invoicing, is hereby replaced with 194-HCD-Finance@co.monterey.ca.us.
6. All references to the Resource Management Agency (RMA) in the Agreement or Amendment No. 1 shall be understood to mean Housing and Community Development (HCD) to the extent applicable.
7. Except as amended herein, all other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force and effect.
8. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

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

CONTRACTOR*

By:

Mike Novo, AICP
Interim Director of
Housing and Community Development

Denise Duffy & Associates, Inc.

Contractor's Business Name

Date:

By:

(Signature of Chair, President or Vice President)

Approved as to Form

Office of the County Counsel-Risk Manager

Leslie J. Girard, County Counsel-Risk Manager

Its:

Denise Duffy, President

(Print Name and Title)

By:

Kristi A. Markey
Deputy County Counsel

Date:

By:

(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Date:

Its:

Denise Duffy, Secretary

(Print Name and Title)

Approved as to Fiscal Provisions

By:

Auditor/Controller

Date:

Approved as to Indemnity and Insurance Provisions

Office of the County Counsel-Risk Manager

By:

Leslie J. Girard
County Counsel-Risk Manager

Date:

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

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

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete an Environmental Impact Report (“EIR”) (“services”) for the LaTourette Subdivision Project (“Project”) to satisfy the requirements of the California Environmental Quality Act (CEQA) as set forth below:

Based on unexpected delays, an additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 2 to the Agreement incorporates additional staff time required for completion of the tasks outlined in the attached Cost Estimate dated April 9, 2021.

Assumptions: This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement.

B. PAYMENT PROVISIONS

COMPENSATION/ PAYMENT

County shall pay an increased amount not to exceed \$21,794.00 (for base budget) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services as amended, for a total amount not to exceed \$183,098.75 (\$162,059.00 base budget and \$21,039.75 project contingency). CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

CONTRACTOR’S BILLING PROCEDURES

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Section 6, “Payment Conditions”, of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to 194-HCD-Finance@co.monterey.ca.us:

County of Monterey
Housing and Community Development (HCD) – Finance
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Except as amended by Amendment No. 1 and Amendment No. 2, all other payment provisions of the Agreement remain in full force and effect.

EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

DD&A, Inc. Cost Estimate
for County of Monterey
LaTourette Subdivision Administrative Draft EIR Project
April 9, 2021

Task		Principal	Sr. Project Manager, Regulatory Specialist	Sr. Planner/Scientist	Assistant Project Manager	Asst Planner	GIS/Computer Specialist	Admin/Editing	Hours Per Task	Subtask	Cost Per Task
1	2nd Admin Draft EIR	2	8	4	32	24	4		74		9,402.00
2	Draft EIR	2	6	2	12	8	2		32		4,430.00
3	Meetings	6	6		8				20		3,546.00
4	Project Management and Coordination	4	10		6			4	24		3,870.00
	Total Hours	14	30	6	58	32	6	4	150		
	Hourly Rate	\$ 233.00	\$ 194.00	\$ 155.00	\$ 123.00	\$ 100.00	\$ 107.00	\$ 65.00			
	Total Labor	\$ 3,262	\$ 5,820	\$ 930	\$ 7,134	\$ 3,200	\$ 642	\$ 260			\$ 21,248
Subconsultants											\$ -
None										\$ -	
Expenses											\$ 475
Printing/Copies										\$ 200	
Mileage (at current IRS mileage rate)										\$ 125	
Miscellaneous (phone, fax, cellular, postage, courier etc)										\$ 150	
Subtotal											\$ 475
Administration Fee											\$ 71
Total Budget											\$ 21,794