

# **ATTACHMENT 3**

Executed Funding Agreement A-16313  
and Amendment No. 1  
with UCP East Garrison, LLC

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## Monterey County Board of Supervisors

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1st Floor  
Salinas, CA 93901  
831.755.5066

[www.co.monterey.ca.us](http://www.co.monterey.ca.us)

### Board Order

The first and second motion were not accurately determined, however, the consent agenda passed to approve Consent Calendar Item Numbers 25 through 51.1.

#### Agreement No.: A-16313

- a. Approve and authorize the Housing and Community Development Director to execute a Professional Services Agreement with Denise Duffy & Associates, Inc., to provide planning and environmental services for the East Garrison Specific Plan and Combined Development Permit Amendment (PLN030204) in an amount not to exceed \$184,843 effective upon execution of the agreement and ending June 30, 2024;
- b. Approve and authorize the Housing and Community Development Director to execute a Funding Agreement with UCP East Garrison, LLC, the Master Developer for the East Garrison Project, inclusive of contingency and optional task funding, for the not to exceed amount of \$240,295 effective upon execution and ending June 30, 2024;
- c. Authorize the Housing and Community Development Director, or designee, to execute future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than 10%, subject to review by County Counsel.

PASSED AND ADOPTED on this 16<sup>th</sup> day of May 2023, by roll call vote:

AYES: Supervisors Alejo, Church, Lopez, Askew, and Adams  
NOES: None  
ABSENT: None

I, Valerie Ralph, 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 82 for the meeting May 16, 2023.

Dated: May 22, 2023  
File ID: 23-376  
Agenda Item No.: 49

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

  
Emmanuel H. Santos, Deputy

**FUNDING AGREEMENT  
FOR THE  
EAST GARRISON PROJECT FINAL PHASE AMENDMENT APPLICATION  
PROCESSING AND ENVIRONMENTAL REVIEW**

**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 UCP East Garrison, LLC, a Delaware limited liability company, the Master Developer for the East Garrison Project, (“PROJECT APPLICANT”) (collectively, the “Parties”) and effective as of the date the Board of Supervisors approves the AGREEMENT and with reference to the following facts and circumstances:

**RECITALS**

- A. On October 4, 2005, the Board of Supervisors approved a Combined Development Permit (PLN030204) allowing the development of the East Garrison Project, a mixed-use residential development consisting of up to 1,470 dwelling units.
- B. To date, East Garrison has developed into a community consisting of 994 homes with supporting infrastructure and public improvements, including: 808 market-rate units; 65 affordable apartments (very low and low-income); 51 moderate-income units; 70 work force II units; fire station with community room; and approximately 37 acres of community, neighborhood and dog parks, open space and trails.
- C. Citing differences in the current development environment now compared to 2005 when the East Garrison Project was approved, the PROJECT APPLICANT prepared a Final Phase Concept that proposes changes to the East Garrison Project that include co-locating the Phase Three Affordable Rental Housing Project with the Town Center and modifying the remaining housing unit mix and locations, with an expressed goal to enable the development to be completed in a timely manner and to help expedite the implementation of the remaining development while respecting the goals and intent of the original vision.
- D. On January 24, 2023, the Board of Supervisors received a presentation by the PROJECT APPLICANT the East Garrison Final Phase Concept Proposal.
- E. At its January 24, 2023, meeting, the Board of Supervisors directed staff to assign high priority to the East Garrison Final Phase application, once submitted to the County, and expedite permit processing with cost recovery funded by the Master Developer.
- F. The County and PROJECT APPLICANT are interested in expeditiously bringing the East Garrison Final Phase application forward to the Board of Supervisors for consideration, and recognize that in doing so it is possible that there may be times when in order for County staff to dedicate necessary time to expedite this application, the County may require additional outside consultant services be retained to ensure other applications in queue for County review that are directly impacted by redirected staff time to this application continue to progress in a timely manner.
- G. PROJECT APPLICANT requests the County to contract with a qualified planning and environmental consultant to provide additional application process and environmental

support services necessary to timely expedite reviewing and processing the application including, preparing CEQA documentation.

- H. The Parties agree that it is necessary and desirable that the County engage Denise Duffy & Associates, Inc., (“CONTRACTOR”) to provide application review, processing, and environmental review services. CONTRACTOR shall perform the Scope of Work specified in the Professional Services Agreement (“PSA”) between the County and CONTRACTOR, attached to this AGREEMENT as “Exhibit 1” and incorporated herein by reference. The County shall manage the Project work performed by CONTRACTOR.
- I. The Parties hereby agree that the County shall engage CONTRACTOR to provide the services set forth in “Exhibit 1” of this AGREEMENT.
- J. A fundamental premise of this AGREEMENT is that nothing herein 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 in exchange for PROJECT APPLICANT’S obligation to cover the County’s costs of retaining CONTRACTOR and providing County staff to work on the Project; but instead it is the County’s intent to expedite review and processing of the East Garrison Final Phase application.
- K. The subject matter of this AGREEMENT is PROJECT APPLICANT’S funding of the CONTRACTOR’S services on the Project. This AGREEMENT also covers the County fee for project management, contract administration and work associated with processing the Project application. This AGREEMENT further covers PROJECT APPLICANT’S funding of additional contract services, if the County, in order to dedicate necessary staff time to expedite this application, requires additional outside consultant services be retained to ensure other applications in queue for County review that are directly impacted by redirected staff time to this application continue to progress in a timely manner.
- L. Entering into this Funding Agreement is a Statutorily Exempt action pursuant to Section 15262 of the CEQA Guidelines as an early discussion on possible future actions that do not involve a commitment to a project. Future amendments to the East Garrison development approvals and agreements will require a CEQA determination prior to consideration.
- M. The Parties make this AGREEMENT with full knowledge of the requirements of state and local law, including, but not limited to the CEQA (Public Resources Code Section 21000 *et seq.*) and the State CEQA Guidelines (California Code of Regulations Title 14, Section 15000 *et seq.*, “Guidelines”) and the Monterey County Code.

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

1. Deposits to Fund PSA and County Fee for Contract Administration.

PROJECT APPLICANT shall deposit an amount equal to the base amount of the PSA between the County and CONTRACTOR for the review of the PROJECT APPLICANT’S submittal documents, preparation of environmental analysis and documentation, and the County

Administration fees associated with this PSA calculated at fifteen percent (15%) of the CONTRACTOR's Base Budget, as set forth in Section 3 below. This totals \$133,843.90 and includes:

CONTRACTOR'S Base Budget	\$116,386.00
County Project Management/Contract Administration	\$17,457.90
Total Deposit	\$133,843.90

PROJECT APPLICANT shall deposit \$133,843.90 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 \$133,843.90 with the County shall be a condition precedent to County's obligation under this AGREEMENT.

2. Fifteen Percent (15%) Project Contingency. An additional fifteen percent (15%) of CONTRACTOR's Base Budget shall be included in the PSA between the County and CONTRACTOR to cover contingencies. This fifteen percent (15%) Project Contingency totals \$17,457.90 and is subject to the procedures set forth in this AGREEMENT.

3. Budget Under AGREEMENT. The amount which may be charged to PROJECT APPLICANT under this AGREEMENT is \$240,295.90.

CONTRACTOR'S Base Budget	\$116,386.00
Project Mgmt/Contract Admin Fee (15% of Base Budget)	\$17,457.90
<b><i>Subtotal Due Upon Approval</i></b>	\$133,843.90
Project Contingency Fee (15% of Base Budget)	\$17,457.90
<b><i>Subtotal Base Budget Contingency</i></b>	\$17,457.90
Optional Task	\$68,457.00
Project Contingency (15% of Optional Task)	\$10,268.55
Project Mgmt/Contract Admin Fee (15% of Optional Task)	\$10,268.55
<b><i>Subtotal Optional Task</i></b>	\$88,994.10
<b>TOTAL Budget Under AGREEMENT</b>	<b>\$240,295.90</b>

4. Within thirty (30) days after the end of each quarter, the 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 "Exhibit A" of the PSA (Scope of Services/Payment Provisions for the Project). Any Base Budget funds remaining at completion of CONTRACTOR's services shall be returned to the PROJECT APPLICANT.

5. Engagement of CONTRACTOR. This AGREEMENT is based on the County engaging CONTRACTOR in accordance with the PSA between the County and CONTRACTOR attached as Exhibit 1 and directing CONTRACTOR to diligently expedite

services performed under the PSA with the intent to meet the Schedule (as defined in Section 6). 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 expedited processing of the Project. The County shall provide direction and guidance to the CONTRACTOR. CONTRACTOR's contact(s) 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.

6. Schedule of Performance. During the AGREEMENT Term, the PROJECT APPLICANT will prepare and submit an application to amend the East Garrison Project's Final Phase to the County. Once submitted, PROJECT APPLICANT and County agree to pursue in good faith and endeavor to achieve the steps, milestones and timelines described in the Schedule of Performance incorporated as Exhibit 2 to this agreement (the "Schedule"), with the intent of processing the Project for consideration by the Board of Supervisors by or before February 2024.

7. Payment(s) to CONTRACTOR and County.

a. CONTRACTOR

CONTRACTOR's invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT and shall be paid in accordance with the terms of Section II of Exhibit "A" of the PSA with CONTRACTOR, included in Exhibit "1" of this AGREEMENT.

Within sixty (60) days after the completion of services under the PSA or earlier termination of this AGREEMENT in accordance with the terms hereunder, any unearned balance of the Base Budget deposited by PROJECT APPLICANT to fund the PSA's Base Budget amount shall be returned to PROJECT APPLICANT.

b. County Contract Administration Fee

The County Project Management and Contract Administration Fee of \$17,457.90 (base budget) associated with the PSA between the County and CONTRACTOR shall be paid by PROJECT APPLICANT upon approval of this Agreement by the County of Monterey Board of Supervisors. These fees are nonrefundable.

c. Project Contingency

An additional fifteen percent (15%) of CONTRACTOR's Base Budget, in an amount not to exceed \$17,457.90, covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of both the County and PROJECT APPLICANT. Within five (5) working days of receipt of a request from the County, PROJECT APPLICANT shall approve or disapprove the Request for Transfer from Project Contingency and, if approved, at the same time submit a check to the County for the amount requested.

If PROJECT APPLICANT takes more than five (5) working days to respond to a Request for Transfer from Project Contingency, additional costs may accrue to CONTRACTOR, which may result in another Request for Transfer from Project Contingency.

d. Optional Task – Preparation of Supplemental EIR

An additional Optional Task for Preparation of Supplemental EIR, in an amount not to exceed \$68,457, covers additional effort necessary in the event that CONTRACTOR and County determine that a Supplemental EIR (SEIR) is the appropriate level of environmental documentation, and transfer of any Optional Task funds into the Base Budget shall require the approval of both the County and PROJECT APPLICANT. Within five (5) working days of receipt of a request from the County, PROJECT APPLICANT shall approve or disapprove the Request for Transfer from Optional Task and, if approved, at the same time submit a check to the County for the amount requested.

An additional fifteen percent (15%) of CONTRACTOR's Optional Task Budget, in an amount not to exceed \$10,268.55, covers potential contingencies associated with the Optional Task, and transfer of any Project Contingency funds into the Base Budget shall require the approval of both the County and PROJECT APPLICANT. Within five (5) working days of receipt of a request from the County, PROJECT APPLICANT shall approve or disapprove the Request for Transfer from Project Contingency and, if approved, at the same time submit a check to the County for the amount requested.

If PROJECT APPLICANT takes more than five (5) working days to respond to a Request for Transfer from Optional Task or Project Contingency, additional costs may accrue to CONTRACTOR, which may result in another Request for Transfer from Project Contingency.

The County Project Management and Contract Administration Fee of \$10,268.55 (optional task) associated with the PSA between the County and CONTRACTOR shall be paid by PROJECT APPLICANT upon approval of PROJECT APPLICANT of the Request to Transfer from Optional Task. These fees are nonrefundable.

7. 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.

8. No Promise or Representation. The Parties agree that, except for the expedited review and processing described herein, nothing in this 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 this AGREEMENT is undertaken without regard to the County's actions regarding the Project.

9. Term. AGREEMENT shall become effective the date the Board of Supervisors approves this AGREEMENT, and continue through June 30, 2024, unless terminated pursuant to Paragraph 10 of this AGREEMENT.

10. Termination. AGREEMENT shall terminate on June 30, 2024, 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, and the County will return any unused deposit in accordance with Section 7(a) of this AGREEMENT.

11. Entire Agreement. This 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 this AGREEMENT that is not expressly contained herein.

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

13. 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.

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

15. Contracting Officer. The contracting officer of the County, and the only entity authorized by law to make or amend this AGREEMENT on behalf of the County, is the County of Monterey Board of Supervisors or a County employee whom they have specifically authorized.

16. 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.

17. Governing Law. This 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.

18. Construction. The language in all parts of this AGREEMENT shall be construed, in all cases, according to its fair meaning. The Parties acknowledge that each party has reviewed

this 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 this AGREEMENT.

19. Conflict with Professional Services Agreement between CONTRACTOR and the County. In the event of a conflict between the provisions of this AGREEMENT and the PSA between the County and CONTRACTOR, the provisions of this AGREEMENT shall govern.

20. 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.

21. 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 this AGREEMENT or the validity of AGREEMENT is challenged.

22. 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.

23. Notices. Notice to the Parties in connection with this AGREEMENT shall be given personally or by regular mail addressed as follows:

TO COUNTY: Craig W. Spencer, Interim Director of Housing  
and Community Development  
County of Monterey  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901

TO PROJECT  
APPLICANT UCP East Garrison, LLC  
c/o Century Communities  
6700 Koll Center Parkway, Suite 210  
Pleasanton, CA 94566  
Attention: Nicholas Arenson

WITH A COPY TO:  
Century Communities  
4695 MacArthur Court, Suite 300  
Newport Beach, CA 92660  
Attention: Holly Traube Cordova

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

IN WITNESS WHEREOF, the Parties have executed this AGREEMENT as of the last day and year written below.

**COUNTY OF MONTEREY**

**PROJECT APPLICANT\*  
UCP EAST GARRISON, LLC**

By: DocuSigned by:  
Craig Spencer  
Craig Spencer, Interim Director  
Housing and Community Development

By: DocuSigned by:  
Nicholas Arenson  
Nicholas Arenson

Date: 5/22/2023

Its: Division President

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

Date: 5/5/2023

By: DocuSigned by:  
Michael Whilden  
Michael J. Whilden  
Assistant County Counsel

By: DocuSigned by:  
Dean Mills  
Dean Mills

Date: 5/5/2023

Its: Vice President of  
Land Acquisition and Forward Planning

**Approved as to Fiscal Provisions**

Date: 5/5/2023

By: DocuSigned by:  
Ma Mon  
Auditor-Controller

Date: 5/5/2023

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

By: \_\_\_\_\_  
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 1**

PROFESSIONAL SERVICES AGREEMENT  
FOR PROJECT APPLICATION PROCESSING  
AND ENVIRONMENTAL REVIEW

Funding Agreement  
East Garrison Project  
Final Phase Amendment  
Housing and Community Development  
Term: Upon Execution-June 30, 2024  
Contract Amount: \$240,295.90

## COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California ("County") and Denise Duffy & Associates, Inc. ("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 planning and environmental services for the East Garrison Specific Plan and Combined Development Permit Amendment Project (PLN030204) ("Proposed 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 \$184,843.
- 3. TERM OF AGREEMENT.** The term of this Agreement is from upon execution to June 30, 2024 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.

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 the 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 thirty (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 thirty (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 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 County, or defect in a design furnished by County, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against County is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.
- 8.03 Indemnification for All Other Claims or Loss: For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless the 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 County.

## 9. 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 Division, 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 coverages, 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, Broad form 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).

**Requestor must check the appropriate Automobile Insurance Threshold:**

Requestor must check the appropriate box.

Agreement Under \$100,000 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 \$500,000 per occurrence.

Agreement Over \$100,000 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 or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: Any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County 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 (3) 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 (3) 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 (30) days in advance of each endorsed reduction in coverage or limit, cancelation, 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 (5) 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 (5) 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 the 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 (3) 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- (3-) 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 (3) 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, or any other characteristic set forth in California Government code § 12940(a), 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. COMPLIANCE WITH APPLICABLE LAWS.**

13.01 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement as well as any privacy laws including, if applicable, Health Insurance portability and Accountability Act (HIPAA). CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

13.02 CONTRACTOR shall report immediately to County’s Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

13.03 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

**14. 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.

**15. 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:

<b>FOR COUNTY:</b>	<b>FOR CONTRACTOR:</b>
Kathy Nielsen, Management Analyst II Name and Title	Tyler Potter, J.D., AICP, Senior Planner Name and Title
Housing & Community Development 1441 Schilling Place, South 2 <sup>nd</sup> Floor Salinas, CA 93901-4527 Address	Denise Duffy & Associates, Inc. 947 Cass Street, Suite 5 Monterey, CA 93940 Address
(831) 755-4832 <a href="mailto:194-HCD-Contracts@co.monterey.ca.us">194-HCD-Contracts@co.monterey.ca.us</a> Phone and Email	(831) 373-4341 x37 <a href="mailto:tpotter@ddaplaning.com">tpotter@ddaplaning.com</a> Phone and Email

## 16. MISCELLANEOUS PROVISIONS.

- 16.01 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.
- 16.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 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.
- 16.04 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.
- 16.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 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.
- 16.07 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.
- 16.08 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 Time is of the Essence. Time is of the essence in each and all the provisions of this Agreement.
- 16.10 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 16.11 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.
- 16.12 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.

- 16.13 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.
- 16.14 Integration. This Agreement, including the exhibits, represents 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.
- 16.15 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.

**17. CONSENT TO USE OF ELECTRONIC SIGNATURES.**

- 17.01 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 USC section 7001 *et seq.*; California Government Code section 16.5; and, California Civil Code section 1633.1 *et seq.* Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).
- 17.02 Counterparts. The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in PDF via email transmittal.
- 17.03 Form: Delivery by E-Mail or Facsimile. Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in PDF by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

\*\*\*\*\*THIS SECTION INTENTIONALLY LEFT BLANK\*\*\*\*\*

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

**COUNTY OF MONTEREY**

**CONTRACTOR**

By: \_\_\_\_\_  
Contracts/Purchasing Officer

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

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

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

By: \_\_\_\_\_  
Craig W. Spencer  
Working out of class as Director of  
Housing and Community Development

Denise Duffy, President  
Name and Title

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

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

Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel<sup>1</sup>

By: \_\_\_\_\_  
Michael J. Whilden  
Deputy County Counsel

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

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

Denise Duffy, Secretary  
Name and Title

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

By: \_\_\_\_\_  
Auditor-Controller

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

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

Approved as to Liability Provisions<sup>3</sup>  
Office of the County Counsel-Risk Management

By: \_\_\_\_\_  
N/A  
Risk Manager

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

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

\*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 the 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.

<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 Manager is required only if changes are made in paragraphs 8 or 9.

## EXHIBIT A – SCOPE OF WORK/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 as set forth below:

#### **PHASE I – Application Coordination and Review**

**A.1** CONTRACTOR shall perform an application completeness review for the Proposed Project and work with County staff to thoroughly review materials provided by the Applicant to make a determination on the application’s completeness consisting of the following two tasks.

**A.1.1 Project Initiation/Initial Application Review:** CONTRACTOR shall participate in the following tasks:

- 1) Kick-off meeting with the County and project team to collect relevant project background and site information.
- 2) Field review of the project site.
- 3) Review of existing entitlements (including conditions of approval) and the previously adopted Environmental Impact Report (EIR).
- 4) Coordination of an inter-agency review meeting to facilitate review of application materials.
- 5) Determine completeness of the project application.
- 6) Prepare and issue a letter to the Applicant specifying whether their application is considered complete or incomplete, within 30 days of filing of the application. An incomplete letter shall specify all materials necessary for a complete application.

**A.1.2 Incomplete Application/Final Application Review/Completeness Letter:** This scope of work assumes that the initial application submittal would require revisions and would initially be deemed incomplete. In this event, CONTRACTOR shall:

- 1) Review resubmitted application materials.
- 2) Coordinate with County agencies and departments to resolve incomplete items.
- 3) Prepare and issue a letter to the Applicant advising their application is complete. This task assumes that only one round of revisions would be

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

required before the application is deemed complete. Additional rounds of review would be billed on a time and material basis.

- 4) CONTRACTOR shall complete a thorough review of the Applicant-prepared technical documentation to ensure there is sufficient detail to support the CEQA analysis (see Task A.3), identify outstanding items, and establish the schedule for completion of the Proposed Project.

**A.2** CONTRACTOR shall assist the County with finalizing the completed application identified in A.1 and A.2. This will include:

**A.2.1** CONTRACTOR shall work with the County to ensure all completed application materials are uploaded and appropriately tagged and described in Accela.

**A.2.2** CONTRACTOR shall prepare a planning analysis of the completed application.

**A.2.3** CONTRACTOR shall prepare and provide project conditions and mitigations to County.

### **PHASE II – Environmental Documentation**

**A.3** CONTRACTOR shall prepare the CEQA documentation for the Proposed Project in accordance with CEQA and Monterey County procedures consisting of the following tasks.

**A.3.1 Determine Appropriate Level of CEQA Documentation:**

CONTRACTOR shall work with County staff to determine the appropriate level and type of CEQA documentation required for the Proposed Project. This determination would be based on the available background materials, including previous CEQA documentation for the project site and other details related to the Proposed Project.

CONTRACTOR assumes that an EIR Addendum to the East Garrison Specific Plan Subsequent EIR would be the appropriate level of CEQA review for the Proposed Project.

CONTRACTOR has included an optional task in this scope of work describing additional tasks and costs in the event the County determines that a Supplemental EIR (“SEIR”) is the appropriate level of documentation for the Proposed Project.

**A.3.2 Administrative Draft EIR Addendum:**

- 1) CONTRACTOR shall provide an electronic copy of the Administrative Draft EIR Addendum to the County for review and comment. The document shall contain the following mandated sections:

A. Introduction. The introduction section would briefly describe the Proposed Project. The introduction would include an overview of the

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

Proposed Project and a summary of the previous CEQA document(s) applicable to the EIR Addendum. The introduction will also include an overview of the CEQA regulations as they pertain to EIR addendums.

- B. Project Description. The EIR Addendum would provide a detailed description of the Proposed Project based on information provided by the County and the Applicant. The project description would include the regional and vicinity location, project objectives, any existing improvements on the site, and relevant site and vicinity history. The project description would also provide background on the previously approved environmental documentation and how the Proposed Project differs from what was originally approved. This section would include site plans, photographs, and other graphics depicting all aspects of the project, including the following: 1) grading and engineering characteristics; 2) development drawings (including site plans, floor plans, and elevations); 3) infrastructure improvements (on-site and off-site, as appropriate); and 4) landscaping and design features. The project would be described in terms of its technical, economic and environmental characteristics. The project description also would identify intended uses of the EIR Addendum.
- C. Environmental Setting, Impacts, and Mitigation. The topics proposed for analysis in the EIR Addendum are anticipated to include, but are not limited to, aesthetics, geology, soils and drainage, hydrology and groundwater supply system, water quality, air quality/climate change, biological resources, land use and planning, transportation/circulation/traffic analysis, wastewater disposal and treatment, hazardous materials, public services recreation and noise. Each resource section would be separately analyzed in the EIR Addendum and, where appropriate, mitigation measures would be identified to lessen project-related effects to a less-than-significant level. For the purposes of this scope of work, CONTRACTOR assumes that all technical reports provided as part of the application process under Task A.1 would be of sufficient content and quality to provide the basis for the air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials hydrology, noise, transportation, and water supply sections of the EIR Addendum. For each environmental topic, the EIR Addendum would include a discussion of existing conditions and would 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 compared to the findings of the East Garrison Specific Plan Subsequent EIR. The project impact section would present new potentially significant impacts and identify mitigation which avoids or

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

reduces new or greater impacts to a less-than-significant level where feasible.

- D. Graphics. CONTRACTOR shall prepare appropriate graphics and tables to present the environmental analysis.
- E. References/List of Preparers. CONTRACTOR shall identify all sources used as a reference in the EIR Addendum, as well as a listing of all persons involved in the preparation or otherwise contacted during the preparation of the document.

The Administrative Draft EIR Addendum will address all issue areas identified in the most current version of the CEQA Guidelines Appendix G Environmental Checklist Form (2023). The key areas of analysis for the Proposed Project Administrative Draft EIR Addendum are summarized below.

*Aesthetics*: The Administrative Draft EIR Addendum will describe the existing visual characteristics of the Proposed Project. The Administrative Draft EIR Addendum will evaluate the visual effects of the Proposed Project, including design changes (colors, building materials, elevations, etc.) compared to the previously approved project, and its consistency with all applicable Monterey County General Plan policies, zoning requirements, and design guidelines.

*Air Quality*: Build-out of the Proposed Project could result in temporary air quality impacts during construction and permanent air quality impacts during operation, as well as cumulative air quality impacts. The Administrative Draft EIR Addendum will summarize the results of the updated Air Quality Analysis *to be provided by the Applicant as part of Task A.1* and identify any mitigation measures to reduce impacts to a less-than-significant level if required.

*Biological Resources*: Implementation of the Proposed Project could, directly and indirectly, affect biological resources. The Administrative Draft EIR Addendum will summarize the results of the updated Biological Assessment *to be provided by the Applicant as part of Task A.1* and identify any mitigation measures to reduce impacts to a less-than-significant level if required. This scope of work does not include a peer review of the Biological Assessment.

*Cultural & Tribal Cultural Resources*: The Administrative Draft EIR Addendum will evaluate the potential effects to cultural resources based on the available data and records. The Administrative Draft EIR Addendum will summarize the results of the updated Historical Resources Assessment and the Cultural Resources Assessment *to be provided by the Applicant as part of Task A.1* and identify any mitigation measures to reduce impacts to a less-than-significant level if required. This scope of work does not include a peer review of the updated historical resources assessment or the cultural resources assessment. The Administrative

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

Draft EIR Addendum will also summarize the results of AB 52 outreach conducted by the County.

*Energy:* The Administrative Draft EIR Addendum will evaluate the potential impacts related to construction-phase and operational-phase energy used as a result of the Proposed Project. The energy analysis would be based, in part, on the updated Air Quality Analysis *to be provided by the Applicant as part of Task A.1*. Mitigation measures would be identified as applicable to reduce impacts to a less-than-significant level.

*Geology and Soils:* Construction of the Proposed Project could result in impacts related to the geological conditions of the site. The Administrative Draft EIR Addendum will summarize the results of the updated Geotechnical Exploration *to be provided by the Applicant as part of Task A.1* and identify any mitigation measures to reduce impacts to a less-than-significant level if required.

*Greenhouse Gas Emissions:* Construction and operation of the Proposed Project could result in an overall increase in greenhouse gas (GHG) emissions compared to existing conditions. The Administrative Draft EIR Addendum will summarize the results of GHG emissions modeling provided in the updated Air Quality Analysis *to be provided by the Applicant as part of Task A.1*. CONTRACTOR will compare the modeled GHG emissions against adopted air quality management plans and identify any mitigation measures to reduce impacts to a less-than-significant level if required.

*Hazards and Hazardous Materials:* The Proposed Project would be located on the former Fort Ord Military base. Prior military use in the project area has the potential to expose future site occupants and construction personnel to residual hazardous materials or other hazards. The Proposed Project would relocate residential uses to areas previously analyzed for commercial use or vehicle parking. The Administrative Draft EIR Addendum will evaluate potential impacts related to hazards and/or hazardous materials based on an updated hazards analysis (assumed to be a Phase I Environmental Site Assessment or equivalent document) *to be provided by the Applicant as part of Task A.1*.

*Hydrology and Water Quality:* The Administrative Draft EIR Addendum will evaluate the Proposed Project's hydrology and water quality effects. The Administrative Draft EIR Addendum will identify local and regional programs for the maintenance of water quality and the Proposed Project's adherence to these programs. The Administrative Draft EIR Addendum will summarize the results of the updated Hydrological Report *to be provided by Applicant as part of Task A.1* and identify any mitigation measures to reduce impacts to a less-than-significant level if required.

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

*Land Use/Consistency with Plans:* The Administrative Draft EIR Addendum will review all applicable land use plans, the Monterey County General Plan, as well as all applicable policies and regulations to determine whether the Proposed Project would conflict with any of those adopted to avoid or mitigate an environmental impact.

*Noise:* The Administrative Draft EIR Addendum will evaluate the Proposed Project's potential to result in noise impacts. The Administrative Draft EIR Addendum will evaluate construction and operational noise impacts as a result of the Proposed Project, as well as cumulative noise impacts. The Administrative Draft EIR Addendum will summarize the results of the updated Noise Impact Analysis *to be provided by Applicant as part of Task A.1* and identify any mitigation measures to reduce impacts to a less-than-significant level if required.

*Population and Housing:* The Proposed Project includes 254 two to three story compact homes and rowhouses compared to the approved project. The Administrative Draft EIR Addendum will evaluate the Proposed Project's potential to result in population increases as a result of the additional housing units. Mitigation measures would be identified, as appropriate, to reduce any impacts to a less than significant level.

*Transportation:* The Administrative Draft EIR Addendum will evaluate the Proposed Project's potential to result in transportation impacts. The Administrative Draft EIR Addendum will evaluate construction and operational transportation impacts as a result of increased vehicle trips associated with the Proposed Project, as well as cumulative transportation impacts. This will include a VMT analysis to comply with the most recent CEQA thresholds. The Administrative Draft EIR Addendum will summarize the results of the updated Traffic Impact Study *to be provided by Applicant as part of Task A.1* and identify any mitigation measures to reduce impacts to a less-than-significant level if required.

*Utilities:* The Proposed Project includes 254 two to three story compact homes and rowhouses compared to the approved project, which could result in increased impacts on utility providers, specifically for potable water. The Administrative Draft EIR Addendum will evaluate the Proposed Project's potential to result in increased impacts to utilities as a result of the Proposed Project. The Administrative Draft EIR Addendum will summarize the results of the updated Water Supply Assessment *to be provided by Applicant as part of Task A.1*. Mitigation measures would be identified, as appropriate, to reduce any impacts to a less than significant level.

*Other CEQA Requirements:* The Administrative Draft EIR Addendum also will address all other CEQA-required issues, including agricultural resources, mineral resources, public services, wildfire, and references.

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

This scope of work does not include production of any hardcopies of the Administrative Draft EIR Addendum.

### **A.3.3 Revise Administrative Draft EIR Addendum:**

CONTRACTOR shall revise the Administrative Draft EIR Addendum based on comments received from the County. This scope assumes no more than one (1) round of comments. CONTRACTOR shall provide to the County an electronic copy of the revised Administrative Draft EIR Addendum.

### **A.3.4 Mitigation Monitoring and Reporting Program:**

CONTRACTOR shall prepare a Mitigation Monitoring and Reporting Plan (“MMRP”). Mitigation measures recommended for those impacts, as identified in the EIR Addendum would be summarized in the MMRP, along with responsibility for implementation, timing of implementation, and oversight responsibility. This scope of work does not include production of any hardcopies of the EIR Addendum or MMRP.

### **A.3.5 Finalize Conditions and Mitigation in Accela:**

CONTRACTOR shall update the Accela file for the Proposed Project with the completed environmental documentation and update conditions and mitigation measures to reflect the MMRP prepared under Task 3e.

### ***Optional Tasks – Preparation of Supplemental EIR***

**OPT 3 Prepare Supplemental EIR.** In the event that CONTRACTOR and County determine that a Supplemental EIR (SEIR) is the appropriate level of environmental documentation and written authorization is provided by County, CONTRACTOR shall prepare the SEIR for the Proposed Project in accordance with CEQA and Monterey County procedures. This effort would consist of the following tasks, in addition to the tasks described in A.3.2 Administrative Draft EIR Addendum:

### **Optional Task 3a: Notice of Preparation and Participate in Scoping Meeting:**

CONTRACTOR shall prepare the Notice of Preparation (“NOP”) for the Proposed Project in accordance with CEQA and Monterey County procedures. The NOP will be electronically submitted in draft form to the County, Applicant, and other members of the project team, as appropriate, for review and comment prior to public distribution. The NOP will include a brief project description (including figures) and identification of potential environmental impacts in accordance with CEQA Guidelines §15082.

CONTRACTOR shall prepare drafts of the required notices for review and comment (i.e., Notice of Completion and Summary Form for State Clearinghouse submission). Upon receipt of comments, CONTRACTOR will revise the NOP and notices and electronically submit a final version to the County for distribution. This task assumes that the County will be responsible for distribution and noticing. The NOP would circulate for a review period of not less than 30 days.

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

During the course of the 30-day NOP public comment period (see CEQA Guidelines §15082 and §15375), CONTRACTOR shall attend and participate in one (1) public scoping hearing. This task will include the preparation of presentation materials, including a PowerPoint presentation, agenda, comment cards, and other materials that may be required. CONTRACTOR shall be responsible for providing a brief presentation on the nature of the scoping meeting and the general requirements of CEQA, including an overview of the environmental process and anticipated project impacts. All comments received at the scoping meeting and during the NOP comment period will be used to determine the appropriate scope of environmental analysis contained in the SEIR. This task assumes the County will be present at the scoping meeting to facilitate and participate in presenting information about the Proposed Project.

CONTRACTOR shall prepare a summary of the scoping meeting comments at the conclusion of the NOP public comment period to be provided to the County, Applicant, and other members of the project team, as appropriate. The summary of comments will be presented in table format, listing the environmental topics and issues specified in each comment letter. Comments on technical issue areas would also be forwarded to the Applicant's technical consultants for their analyses of identified environmental concerns.

**Optional Task 3b: Prepare Administrative Draft SEIR:** CONTRACTOR shall modify Task 3b to include the following additional mandated sections associated with preparation of an SEIR:

- A. Executive Summary. The executive summary section would be included in the SEIR to briefly describe the Proposed Project and to provide a summary of all potential impacts and recommended mitigation measures identified in the SEIR. The summary also would identify areas of controversy and project alternatives evaluated in the SEIR. The impacts and conditions presented in the previous EIR will serve as the primary base of comparison for the analysis.

CONTRACTOR will prepare updated setting sections and conditions, refined from the existing EIR to focus on the issue areas specific to the Proposed Project. In addition, the SEIR would identify whether the Proposed Project would result in new Long-Term, Cumulative, or Irreversible impacts compared to the findings of the East Garrison Specific Plan Subsequent EIR. It also would identify any Growth Inducing effects of the project.

- B. Cumulative Impacts. In accordance with CEQA requirements, the SEIR would analyze potentially significant cumulative impacts anticipated from development of the project combined with past, present, and reasonably foreseeable future projects in the County and project vicinity. The analysis would be based on a list of proposed or anticipated projects in the area, which would be provided by the County.

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

- C. Alternatives to the Proposed Project. In accordance with CEQA, the SEIR would need to address a reasonable range of alternatives to the Proposed Project that could feasibly meet the project objectives and potentially avoid or lessen any new significant environmental impacts associated with the project.

CONTRACTOR shall consult with County staff and the Applicant to determine up to three (3) feasible alternatives. All alternatives would be discussed both quantitatively and qualitatively in terms of their impacts and their effectiveness in addressing identified significant adverse project impacts. This section would identify and discuss the alternative deemed to be environmentally superior pursuant to the requirements of CEQA §15126.6(e)(2). This evaluation would be based on a comparative analysis of the recommended alternatives.

- D. Other CEQA-Required Sections. The major environmental issues to be addressed in the EIR are described above. In addition to these and the remaining CEQA checklist environmental topics, the SEIR would include other CEQA-required sections as follows: Growth-Inducing Impacts, Significant Unavoidable Impacts, and Irreversible Effects.

**Optional Task 3c: Prepare Public Circulation SEIR.** CONTRACTOR will provide an electronic copy of the Public Circulation Draft SEIR to the County upon final review and authorization of the document by the County. This scope assumes that the County, as the CEQA Lead Agency, will be responsible for coordinating the distribution and publication of the Public Circulation Draft SEIR. This scope of work does not include production of any hardcopies of the Public Circulation Draft SEIR.

**Optional Task 3d: Prepare Final SEIR.** CONTRACTOR will assist County staff with responding to public comments within four weeks after receipt of all public comments, following conclusion of the 45-day review period for the Public Circulation Draft SEIR.

CONTRACTOR will prepare a Final SEIR containing all public comments received and responses to each comment that raises a substantive environmental issue. In addition, the Final SEIR will contain a section showing text edits to the Public Draft SEIR in response to comments received, as appropriate. This scope assumes a minimal number of public comments will be received and that no more than one (1) round of comments from the County will be necessary.

### **PHASE III – Project Approval Hearings and Internal Coordination Meetings**

- A.4 Planning Commission Hearing.** CONTRACTOR shall, following completion of the EIR Addendum, assist the County in preparing the necessary items for the Planning Commission's consideration of the Proposed Project.

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

**A.4.1** CONTRACTOR shall prepare a draft staff report summarizing the Proposed Project, describing the completed application and environmental documentation, and summarizing the proposed action to be taken under consideration by the Planning Commission. The staff report also will include a draft resolution recommending the project to the Board of Supervisors for final approval. CONTRACTOR will provide the draft staff report and resolution to the County for review and comments. CONTRACTOR will then revise and finalize the staff report and resolution for the Planning Commission Hearing.

**A.4.2** CONTRACTOR will assist the County with presenting the Proposed Project at the Planning Commission Hearing. If necessary, CONTRACTOR will prepare an updated draft resolution to incorporate any comments provided by the Planning Commission. CONTRACTOR also will respond to any comments received by the County on the staff report and/or Addendum after posting of the staff report.

**A.5 Board of Supervisors' Meeting.** CONTRACTOR shall assist the County in preparing the necessary packet of information for the Board of Supervisor's final approval, assuming the Planning Commission recommends approval.

**A.5.1** CONTRACTOR will prepare a draft staff report and resolution, summarizing the Proposed Project, describing the completed application and environmental documentation, and summarizing the proposed action to be taken under consideration by the Board of Supervisors.

**A.5.2** CONTRACTOR shall provide the draft staff report and resolution to the County for review and comments. CONTRACTOR will then revise and finalize the staff report and resolution for the Board of Supervisors meeting.

**A.5.3** CONTRACTOR will assist the County with presenting the Proposed Project at the Board of Supervisors meeting. If necessary, CONTRACTOR will prepare an updated draft resolution and staff report to incorporate any comments provided by the Board of Supervisors.

1) If the Board of Supervisors provides comments, CONTRACTOR will present the updated resolution and staff report at the next scheduled Board of Supervisors meeting. CONTRACTOR participation in more than one Board of Supervisors meeting is not included in this scope of work and would be billed on a time-and-materials basis.

**A.6 Additional Meetings** CONTRACTOR shall be available to attend meetings upon request, including internal coordination calls. The scope assumes a maximum of two (2) monthly meetings between May 2023 and February 2024, plus an additional (5) technical meetings on topical issues, for a total of 25 meetings for the Project Manager and staff for meeting attendance. Additional meetings will be billed on a time and materials basis upon approval by the County.

## EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

### A.7 Schedule

Preparation of the Administrative Draft EIR Addendum would be completed approximately 12 weeks from the time the application is considered complete. EIR Addendums are not subject to public review under CEQA.

If the optional tasks related to preparation of a SEIR are authorized, CONTRACTOR will work with the County to provide an amended schedule for the Proposed Project.

## B. PAYMENT PROVISIONS

### B.1 COMPENSATION/PAYMENT

County shall pay an amount not to exceed \$184,843 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Task		Subtotal	Cost Per Task
<b>A.1</b>	<b><i>Application Completeness Review</i></b>		<b>\$ 24,346</b>
A.1.1	<i>Project Initiation/Initial Application Review</i>	\$13,600	
A.1.2	<i>Incomplete Application/Final Application Review/Completeness Letter</i>	10,746	
<b>A.2</b>	<b><i>Complete Application</i></b>		<b>\$6,162</b>
<b>A.3</b>	<b><i>Prepare CEQA Documentation</i></b>		<b>\$40,073</b>
A.3.1	<i>Determine Appropriate Level of CEQA Documentation</i>	2,664	
A.3.2	<i>Prepare Administrative Draft EIR Addendum</i>	22,726	
A.3.3	<i>Revise Administrative Draft EIR Addendum</i>	9,272	
A.3.4	<i>Prepare Mitigation Monitoring and Reporting Program</i>	2,537	
A.3.5	<i>Finalize Conditions and Mitigation in Accela</i>	2,874	
<b>A.4</b>	<b><i>Planning Commission Hearing</i></b>		<b>\$15,964</b>
<b>A.5</b>	<b><i>Board of Supervisors Meeting</i></b>		<b>\$12,270</b>
<b>A.6</b>	<b><i>Additional Meetings</i></b>		<b>\$16,455</b>
	<b><i>Subtotal Labor</i></b>		<b>\$115,270</b>
<b>Optional Task<sup>1</sup></b>			
<b>OPT-3</b>	<b><i>Prepare CEQA Documentation</i></b>		<b>\$ 68,457</b>
OPT-3a	<i>Prepare Notice of Preparation and Participate in Scoping Meetings</i>	7,804	
OPT-3b	<i>Prepare Administrative Draft Supplemental EIR</i>	40,644	
OPT-3c	<i>Prepare Public Circulation SEIR</i>	8,704	
OPT-3d	<i>Prepare Final SEIR<sup>2</sup></i>	11,305	
<b>Expenses</b>			
	Reproduction	550	
	Mileage (at current IRS mileage rate)	75	
	Miscellaneous (phone, fax, cellular, postage, courier, etc.)	345	
<b>Subtotal</b>			<b>\$970</b>

**EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS**

<b>Task</b>	<b>Subtotal</b>	<b>Cost Per Task</b>
<b>Administration Fee</b>		<b>\$146</b>
<b>Total Budget</b>		<b>\$116,386</b>
<b>Total Budget with Optional Task</b>		<b>\$184,843</b>

CONTRACTOR warrants that the cost charged for services under the terms of this contract 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**

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 the Multiyear Agreement (MYA) number, Project name, and/or services, and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to [194-HCD-Finance@co.monterey.ca.us](mailto:194-HCD-Finance@co.monterey.ca.us):

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

Any questions pertaining to invoices under this Agreement should be directed to HCD Finance at (831) 755-4800 or via email to [194-HCD-Finance@co.monterey.ca.us](mailto:194-HCD-Finance@co.monterey.ca.us):

County may, in its sole discretion, terminate this Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

The County 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.

No payments in advance or in anticipation of services to be provided under this Agreement shall be made by the County.

The 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 2****SCHEDULE OF PERFORMANCE**

<b>Task</b>	<b>Target Date</b>
1. Final Phase Planning Documents <ul style="list-style-type: none"> <li>a. Developer to submit redline changes of EG Specific Plan and Pattern Book to County</li> <li>b. Developer to submit Final Phase Parking Analysis and Updated Water Assessment</li> </ul>	<ul style="list-style-type: none"> <li>a. May 19, 2023</li> <li>b. May 19, 2023</li> </ul>
2. Final Phase Entitlement Agreements <ul style="list-style-type: none"> <li>a. Developer to submit redline changes to DDA, First Implementation Agreement and other agreements requiring changes per Final Phase Plan</li> <li>b. Board of Supervisors approve Reimbursement Agreement for outside planning consultant (DDA) to expedite process.</li> </ul>	<ul style="list-style-type: none"> <li>a. May 19, 2023</li> <li>b. May 16, 2023</li> </ul>
3. Final Phase Entitlements: <ul style="list-style-type: none"> <li>a. County Staff/DDA – Review Final Phase Plan Submittal Plans and Documents</li> <li>b. CEQA Determination*</li> <li>c. Administrative Draft CEQA Document</li> <li>d. Final CEQA Document</li> <li>e. Planning Commission Hearing</li> <li>f. Board of Supervisors Hearing</li> </ul>	<ul style="list-style-type: none"> <li>a. Within 30 days of submittal</li> <li>b. Within 30 days of submittal</li> <li>c. Within 90 days of application deemed complete</li> <li>d. November 2023</li> <li>e. December 2023</li> <li>f. February 2024</li> </ul>

*\*NOTE: CONTRACTOR shall work with County staff to determine the appropriate level and type of CEQA documentation required for the proposed project. For purposes of this schedule only, the timeline is based on an EIR Addendum to the East Garrison Specific Plan Subsequent EIR and is subject to change pending final CEQA determination.*



# Monterey County Board of Supervisors

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## Board Order

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor Wendy Root Askew to:

### **Agreement No.: A-16313 ; Amendment No.: 1**

Consider renewing and amending a Funding Agreement (FA) between UPC East Garrison, LLC/Century Communities and the County of Monterey and renewing and amending a Professional Services Agreement (PSA) between Denise Duffy & Associates Inc. and the County of Monterey to extend the term of the FA and PSA to June 30, 2026 and to increase the not to exceed contract amounts by \$161,972 and \$124,445 respectively, for condition compliance and parking analysis services associated with the East Garrison final phase amendment project (PLN230321-AMD2).

PASSED AND ADOPTED on this 13<sup>th</sup> day of May 2025, by roll call vote:

AYES: Supervisors Alejo, Church, Lopez, Askew and Daniels  
NOES: None  
ABSENT: None

I, Valerie Ralph, 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 82 for the meeting May 13, 2025.

Dated: May 13, 2025  
File ID: A 25-145  
Agenda Item No.: 37

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

Emmanuel H. Santos

Emmanuel H. Santos, Deputy

**RENEWAL AND AMENDMENT NO. 1  
TO FUNDING AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
UCP EAST GARRISON, LLC**

**THIS AMENDMENT NO. 1** to Funding Agreement No. A-16313 between the County of Monterey, a political subdivision of the State of California (“County”) and UCP East Garrison, LLC (“PROJECT APPLICANT”) is hereby entered into between the County and the PROJECT APPLICANT (collectively, the “Parties”) and retroactive to of July 1, 2024.

**WHEREAS**, PROJECT APPLICANT received approval for a Combined Development Permit (PLN030204) from the Board of Supervisors on October 4, 2005, for the East Garrison Specific Plan and Combined Development Permit Amendment Project (“Project”);

**WHEREAS**, PROJECT APPLICANT requested the County contract with a qualified planning and environmental consultant to provide additional application processing and environmental support services necessary to timely expedite reviewing and processing the application, including California Environmental Quality Act (CEQA) documentation;

**WHEREAS**, PROJECT APPLICANT entered into Funding Agreement A-16313 with the County to provide funding for the planning and environmental services of the Project in an amount not to exceed \$240,295.90 for a term of May 22, 2023 through June 30, 2024;

**WHEREAS**, concurrent with approval of the Funding Agreement, the County entered into Professional Services Agreement A-16313 with Denise Duffy & Associates, Inc., (“CONTRACTOR”) to provide environmental services for the Project in an amount not to exceed \$184,843 for a term of May 22, 2023 through June 30, 2024;

**WHEREAS**, the Agreement expired by its own terms on June 30, 2024;

**WHEREAS**, the Agreement’s provisions require updating;

**WHEREAS**, additional planning services are necessary to provide ongoing pre-construction condition compliance related to services through recordation of the final map; and

**WHEREAS**, additional funds are necessary for CONTRACTOR to continue to provide services; and

**WHEREAS**, the Parties wish to further amend the Funding Agreement to extend the term for two (2) years to June 30, 2026, with a retroactive start date of July 1, 2024, and increase the Agreement amount of \$240,295.90 by \$161,791.50 for a new Agreement amount of \$402,087.40; and

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

1. This Agreement A-16313 is hereby renewed retroactive to July 1, 2024, and all of its prior terms and conditions shall be deemed to have been in effect continuously since that time.
2. Amend the last sentence and update the table in Paragraph 1, “Deposits to Fund PSA and County Fee for Contract Administration,” to read as follows:

This totals \$269,032.15 and includes:

CONTRACTOR’s Base Budget (excluding optional task)	\$233,941.00
County Project Management/Contract Administration	<u>35,091.15</u>
Total Deposit	\$269,032.15

PROJECT APPLICANT shall deposit \$269,032.15 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 \$269,032.15 with the County shall be a condition precedent to County’s obligation under this AGREEMENT.

3. Amend the last sentence of Paragraph 2, “Fifteen Percent (15%) Project Contingency,” to read as follows:

This fifteen percent (15%) Project Contingency totals \$35,091.15 and is subject to the procedures set forth in this AGREEMENT.

4. Amend Paragraph 3, “Budget Under AGREEMENT,” to read as follows:

The amount which may be charged to PROJECT APPLICANT under this AGREEMENT is \$402,087.40.

CONTRACTOR’S Base Budget	\$233,941.00
Project Mgmt/Contract Admin Fee (15% of Base Budget)	<u>\$35,091.15</u>
<b><i>Subtotal Due Upon Approval</i></b>	<b><i>\$269,032.15</i></b>
Project Contingency Fee (15% of Base Budget)	<u>\$35,091.15</u>
<b><i>Subtotal Base Budget Contingency</i></b>	<b><i>\$35,091.15</i></b>
Optional Tasks	\$75,357.00
Project Contingency (15% of Optional Task)	\$11,303.55
Project Mgmt/Contract Admin Fee (15% of Optional Task)	<u>\$11,303.55</u>
<b><i>Subtotal Optional Task</i></b>	<b><i>\$97,964.10</i></b>
<b>TOTAL Budget Under AGREEMENT</b>	<b>\$402,087.40</b>

5. Amend Paragraph 7, “Payment(s) to CONTRACTOR and County,” to add item “e., Payments to County,” to read as follows:

Project Applicant shall respond to reimbursement requests promptly and within thirty (30) days of receipt of the request. Failure to timely reply with payment may result in additional fees.

6. Amend Paragraph 9, "Term," to read as follows:

AGREEMENT shall become effective May 22, 2023 and continue through June 30, 2026, unless terminated pursuant to Paragraph 10 or amended pursuant to Paragraph 14 of AGREEMENT.

7. Amend the first sentence of Paragraph b, "County Contract Administration Fee," of Paragraph 7, "Payment(s) to CONTRACTOR and County," to read as follows:

The County Project Management and Contract Administration Fee of \$35,091.15 (base budget) associated with the PSA between the County and CONTRACTOR shall be paid by PROJECT APPLICANT upon approval of this Agreement by the County of Monterey Board of Supervisors.

8. Amend the first sentence of Paragraph c, "Project Contingency," of Paragraph 7, "Payment(s) to CONTRACTOR and County," to read as follows:

An additional fifteen percent (15%) of CONTRACTOR's Base Budget, in an amount not to exceed \$35,091.15, covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of both the County and PROJECT APPLICANT.

9. Amend the first sentence of Paragraph 10, "Termination," to read as follows:

AGREEMENT shall terminate on June 30, 2026, but may be terminated earlier by PROJECT APPLICANT or County, by giving thirty (30) days written notice to the other.

10. In all places within the Agreement, any reference to the County's email address that includes @co.monterey.ca.us is hereby replaced with @countyofmonterey.gov.

11. Except as amended herein, all other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force and effect.

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

