

ATTACHMENT 4

Executed Professional Services Agreement A-16313
and Amendment No. 1
with Denise Duffy & Associates, Inc.

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Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
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 16th 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

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:

FOR COUNTY:	FOR CONTRACTOR:
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 nd Floor Salinas, CA 93901-4527 Address	Denise Duffy & Associates, Inc. 947 Cass Street, Suite 5 Monterey, CA 93940 Address
(831) 755-4832 194-HCD-Contracts@co.monterey.ca.us Phone and Email	(831) 373-4341 x37 tpotter@ddaplaning.com 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: _____

By: Craig Spencer
9A435825BB2411
Craig W. Spencer
Working out of class as Director of
Housing and Community Development

DocuSigned by:
Denise Duffy
1AE402F4D393490E
Signature

Denise Duffy, President
Name and Title

Date: 5/22/2023

Date: _____

5/5/2023

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel¹

By: Michael Whilden
0F98C5BE9B6F16
Michael J. Whilden
Deputy County Counsel

Date: 5/5/2023

By: _____

DocuSigned by:
Denise Duffy
1AE402F4D393490E
Signature

Denise Duffy, Secretary
Name and Title

Approved as to Fiscal Provisions²

By: Jennifer Forsyth
4E7E657875454A11
Auditor-Controller

Date: 5/5/2023

Date: _____

5/5/2023

Approved as to Liability Provisions³
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.

¹ Approval by County Counsel is required for all Professional Service Agreements over \$100,000.

² Approval by Auditor-Controller is required for all Professional Service Agreements.

³ 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
A.1	<i>Application Completeness Review</i>		\$ 24,346
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	
A.2	<i>Complete Application</i>		\$6,162
A.3	<i>Prepare CEQA Documentation</i>		\$40,073
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	
A.4	<i>Planning Commission Hearing</i>		\$15,964
A.5	<i>Board of Supervisors Meeting</i>		\$12,270
A.6	<i>Additional Meetings</i>		\$16,455
	<i>Subtotal Labor</i>		\$115,270
Optional Task¹			
OPT-3	<i>Prepare CEQA Documentation</i>		\$ 68,457
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 SEIR²</i>	11,305	
Expenses			
	Reproduction	550	
	Mileage (at current IRS mileage rate)	75	
	Miscellaneous (phone, fax, cellular, postage, courier, etc.)	345	
Subtotal			\$970

EXHIBIT A – SCOPE OF WORK/PAYMENT PROVISIONS

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

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:

County of Monterey
Housing and Community Development (HCD) – Finance
1441 Schilling Place, South 2nd 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:

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.



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 13th 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 PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE COUNTY OF MONTEREY AND
DENISE DUFFY AND ASSOCIATES, INC.**

THIS AMENDMENT NO. 1 to Professional Services Agreement No. A-16313 between the County of Monterey, a political subdivision of the State of California (“County”) and Denise Duffy & Associates, Inc. (“CONTRACTOR”), is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and retroactively effective as of July 1, 2024.

WHEREAS, the County entered into Funding Agreement A-16313 with UCP East Garrison, LLC (“Project Applicant”) to provide funding for the East Garrison Specific Plan and Combined Development Permit Project (“Project”) (PLN030204) in an amount not to exceed \$240,295.90 for a term of May 22, 2023 through June 30, 2024;

WHEREAS, CONTRACTOR entered into Professional Services Agreement A-16313 (“PSA”) with the County to provide environmental services for the Project in an amount not to exceed \$184,843 and for a term of May 22, 2023 through June 30, 2024;

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

WHEREAS, additional funds are needed to complete the Project;

WHEREAS, the Parties wish to renew the Agreement to allow the CONTRACTOR to address the 118 conditions of approval, concerns raised regarding parking availability, and the appeal period and statute of limitations for making a claim per CEQA;

WHEREAS, CONTRACTOR, prior to June 30, 2024, provided approved additional unforeseen planning and environmental support services for the Project to include preparation of a supplemental technical analysis, ongoing planning services in response to comments raised at the Planning Commission hearing, and preparation for the Board of Supervisors’ meeting;

WHEREAS, the Parties wish to expand the Scope of Work with Exhibit A-1, Scope of Work/Payment Provisions, to add Tasks A.7, Receive Documents and Establish Compliance Program; A.8, Meeting Attendance, and A.9, Project Management;

WHEREAS, the Agreement provisions require updating; and

WHEREAS, the Parties wish to extend the term of the agreement two (2) years to June 30, 2026, to allow CONTRACTOR to continue to provide services and to increase the Agreement amount of \$184,843 by \$124,455 for a new not to exceed amount of \$309,298.

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 first sentence of Section 1, Services to be Provided, to read as follows:
The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A** and **A-1** in conformity with the terms of this Agreement.
3. Amend Section 2, Payments by County, to read as follows:
The County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A** and **A-1** subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of **\$309,298**.
4. Amend the first sentence of Section 3, Term of Agreement, to read as follows:
The term of this Agreement is from May 22, 2023 to June 30, 2026 unless sooner terminated pursuant to the terms of this Agreement.
5. 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.
6. Amend Paragraph 9.02, 'Qualifying Insurer,' of Section 9.0, "Insurance," to read as follows:
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 A.M. Best's Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Agent.
7. Amend Paragraph 9.03, "Insurance Coverage Requirements," of Section 9.0, "Insurance," to read as follows:
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, and \$2,000,000 in the aggregate.

(Note: any proposed modifications to these general liability 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.)

Auto Liability Coverage: must include 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.

(Note: any proposed modifications to these workers' compensation 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.)

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.

(Note: Professional liability insurance coverage is required if the CONTRACTOR is providing a professional service regulated by the state. Examples of service providers regulated by the state are insurance agents, professional architects and engineers, doctors, certified public accountants, lawyers, etc. However, other professional contractors, such as computer or software designers, technology services, and services providers such as claims administrators, should also have professional liability. If in doubt, consult with your risk or contract manager.)

If the CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the CONTRACTOR.

8. Rename Paragraph 9.04, "Other Insurance Requirements," of Section 9.0, "Insurance Requirements," to "Other Requirements."

9. Amend Paragraph 9.04, "Other Insurance Requirements," of Section 9.0, "Insurance Requirements," to read as follows:

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 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 days in advance of any endorsed reduction in coverage or limit, cancellation, 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.

Additional Insured Status:

The County of Monterey, its officers, officials, employees, and volunteers are to be covered as additional insureds on the commercial general liability policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage shall be provided in the form of an endorsement to the CONTRACTOR's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

Primary Coverage:

For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Waiver of Subrogation:

CONTRACTOR hereby grants to County a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the County by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

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 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 always 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 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. Amend Section 11., "Non-Discrimination," to read as follows:

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), 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.

11. Amend Agreement to add Paragraph 16.16, "Independent Contractor Compliance with Government Code Section 1097.6(c)," under Section 16, "Miscellaneous Provisions," as follows:

Independent Contractor Compliance. This section applies to those situations when a CONTRACTOR is awarded an Agreement for a preliminary phase of a project, with future phases to be bid separately. This section does not apply to those situations when an Agreement is awarded for multiple phases of a project under a single Agreement/proposal. When applicable, and as described below, CONTRACTOR's duties and services under this Agreement shall not include preparing or assisting the public entity with any portion of the public entity's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the public entity. The public entity entering this Agreement shall at all times retain responsibility for public contracting,

including with respect to any subsequent phase of this project. CONTRACTOR's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. CONTRACTOR shall cooperate with the public entity to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by CONTRACTOR pursuant to this Agreement.

12. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
13. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

THIS SECTION INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the County and CONTRACTOR have executed this Amendment No. 1 as of the day and year written below.

COUNTY OF MONTEREY

DENISE DUFFY & ASSOCIATES, INC.

By: N/A
Contracts/Purchasing Officer

By: *Denise Duffy*
(Chair, President, or Vice President)

Date: _____

Denise Duffy, President

By: *Craig W. Spencer*
Craig W. Spencer, Director

Date: 5/20/2025

Date: 5/20/2025

By: *Denise Duffy*
(Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

**Approved as to Form
County Council
Susan K. Blicht, County Council**

Denise Duffy, Secretary

By: *Michael Whilden*
Michael Whilden, Deputy County Council

Date: 5/20/2025

Date: _____

Approved as to Fiscal Provisions

By: *Patricia Ruiz*
Auditor/Controller

Date: 5/20/2025

Approved as to Liability Provisions

By: N/A
David Bolton, Risk Manager

Date: _____

County Board of Supervisors' Agreement Number: _____ approved on _____.

*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.