

**AMENDMENT NO. 7
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS AMENDMENT NO. 7 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; Haute Properties, LLC; Monterey Bay Aquarium Research Institute; Moss Landing Commercial Park, LLC dba Moss Landing Business Park; Moss Landing Harbor District; Quin Delta, LLC; San Jose State University Research Foundation; Keith Family Investments, LLC and/or assignee; and Phil DiGirolamo (hereinafter, "PROJECT APPLICANTS") is hereby entered into between the County and the PROJECT APPLICANTS (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, PROJECT APPLICANTS entered into a Funding Agreement with County on February 9, 2011 (hereinafter, "Agreement") to provide an Environmental Impact Report (hereinafter, "EIR") for the Moss Landing Community Plan Update (hereinafter, "Project") through May 31, 2011 for an amount not to exceed \$334,466.50; and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1") to extend the term for one (1) additional year through May 31, 2012 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on June 4, 2012 (hereinafter, "Amendment No. 2") to extend the term for one (1) additional year through May 31, 2013 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on May 29, 2013 (hereinafter, "Amendment No. 3") to extend the term for one (1) additional year through May 31, 2014 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on June 2, 2014 (hereinafter, "Amendment No. 4") to extend the term for one (1) additional year through May 31, 2015 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on May 26, 2015 (hereinafter, "Amendment No. 5") to extend the term for two (2) additional years through May 31, 2017 with no increase in the not to exceed amount, and also made a change in name only replacing Hamlin Properties, LLC with Haute Properties, LLC; and

WHEREAS, Agreement was amended by the Parties on July 31, 2015 (hereinafter, “Amendment No. 6”, including Exhibit 1A, Amendment No. 6 to the Professional Services Agreement between EMC Planning Group, Inc. and the County of Monterey for the Moss Landing Community Plan Update Environmental Impact Report) to increase the amount of the Contractor’s Base Budget by \$69,448.00 (County funded amount) which resulted in a total of the Maximum Budget Under Agreement in the amount of \$473,588.00 with no extension to the term; and

WHEREAS, County engaged EMC Planning Group, Inc. (hereinafter, “Contractor”) to prepare the EIR for the Project; and

WHEREAS, the EIR has not been completed for the Project; and

WHEREAS, County has identified a need to complete a County-funded Corridor Traffic Study in the Moss Landing Area to better understand options for any needed infrastructure improvements to incorporate into the Project Description; and

WHEREAS, County has identified a need to revise the impact analysis to be contained in the EIR to account for a revised Project Description; and

WHEREAS, due to the Contractor’s detailed knowledge and work history with the Project and as a cost saving measure, County will further engage Contractor to complete the Corridor Traffic Study as well as the revised impact analysis for the Project; and

WHEREAS, data collected by the Contractor for the completion of the Corridor Traffic Study may be incorporated into the Draft EIR for the Project; and

WHEREAS, the Corridor Traffic Study and the revised impact analysis for the Draft EIR will be funded by the County; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for one (1) additional year to May 31, 2018 with no associated dollar amount increase to the PROJECT APPLICANTS nor the County and allow County Departments and Contractor to continue to provide the services identified in the Agreement and as amended by this Amendment No. 7.

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

1. Amend the second sentence of the second paragraph of Paragraph 3, “**CONTRACTOR – CONTRACTOR’S Base Budget**”, to read as follows:

Should AGREEMENT be terminated prior to May 31, 2018, any unearned balance of the \$242,236.70 deposited by the PROJECT APPLICANTS to fund the base contract of CONTRACTOR shall be returned to PROJECT APPLICANTS within sixty (60) days of receipt of notice of termination by COUNTY in proportion to the percentage of funds contributed by each PROJECT APPLICANT.

2. Amend Paragraph 9, “**Term**”, to read as follows:

AGREEMENT shall become effective May 4, 2010 and continue through May 31, 2018, unless terminated earlier by PROJECT APPLICANTS or COUNTY pursuant to Paragraph 10 or amended pursuant to Paragraph 14 of AGREEMENT.

3. Amend Paragraph 10, “**Termination**”, to read as follows:

AGREEMENT shall terminate on May 31, 2018, but may be terminated earlier by PROJECT APPLICANTS or COUNTY, by giving thirty (30) days’ written notice to the other.

4. Amend the “TO COUNTY” section of Paragraph 23, “**Notices**”, to read as follows:

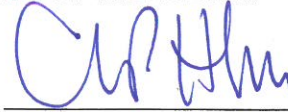
Carl P. Holm, AICP
RMA Director and Chief of Planning
County of Monterey
Resource Management Agency – Land Use and Community Development
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

5. All other terms and conditions of the Agreement remain unchanged and in full force.
6. This Amendment No. 7 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
7. The recitals to this Amendment No. 7 are incorporated into the Agreement and this Amendment No. 7.

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 7 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By:



RMA Director and Chief of Planning

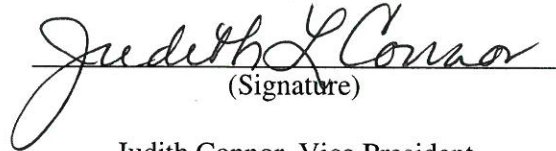
Date:

23 MAY 2017

PROJECT APPLICANTS*

Elkhorn Slough Foundation

By:



(Signature)

Its:

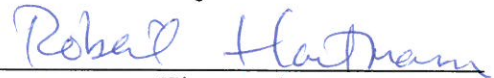
Judith Connor, Vice President

(Print Name and Title)

Date:

10 May 2017

By:



(Signature)

Its:

Robert Hartmann, Secretary

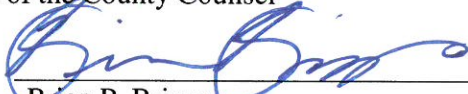
(Print Name and Title)

Date:

15 May 2017

Approved as to Form and Legality
Office of the County Counsel

By:



Brian P. Briggs
Deputy County Counsel

Date:

5-18-17

*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set for in the Agreement together with the signatures of two specified officers. If PROJECT APPLICANT is a partnership, the name of the partnership shall be set forth in the Agreement together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign this Agreement.

PROJECT APPLICANT*

Haute Properties, LLC

By:


(Signature)

Its:

Kim Solano, Owner, Managing Member
(Print Name and Title)

Date:

4/6/17

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PROJECT APPLICANT*

Monterey Bay Aquarium Research Institute

By: 
(Signature)

Its: Chris Scholin, President & CEO
(Print Name and Title)

Date: 4/6/17

By: 
(Signature)

Its: Basilio Martinez, CFO
(Print Name and Title)

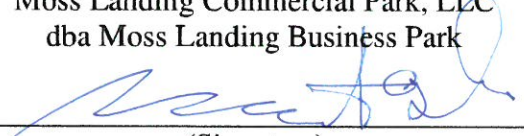
Date: April 6, 2017

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PROJECT APPLICANT*

Moss Landing Commercial Park, LLC
dba Moss Landing Business Park

By:


(Signature)

Its:

Nader Agha, Managing Partner / Member
(Print Name and Title)


Date:

4-7-17

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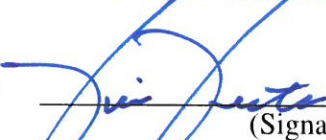
PROJECT APPLICANT*

Moss Landing Harbor District

By: 
(Signature)

Its: Russ Jeffries, Board President
(Print Name and Title)

Date: 4.26.17

By: 
(Signature)

Its: Vince Ferrante, Board Secretary
(Print Name and Title)

Date: 4.26.17

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PROJECT APPLICANT*

Quin Delta, LLC

By: 

(Signature)

Its:

John Gregg, Manager

(Print Name and Title)

Date:

4/30/17

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PROJECT APPLICANT*

San Jose State University Research Foundation

By:

Pamela C Stacks 7/12/17
(Signature)

Its:

Pamela C. Stacks,
Associate Vice President for Research,
SJSURF

(Print Name and Title)

Date:

By:

Sandeep Muju
(Signature)

Its:

Sandeep Muju, Ph.d.
Secretary of the Board
SJSURF

(Print Name and Title)

Date:

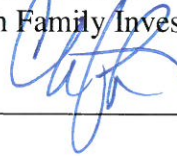
4/12/17

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PROJECT APPLICANT*

Keith Family Investments, LLC and/or assignee

By:



(Signature)

Its:

Chris Keith, Managing Partner

(Print Name and Title)

Date:

4/12/17

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PROJECT APPLICANT*

Phil DiGirolamo

By:

(Signature)

Its:

Phil DiGirolamo, Owner

(Print Name and Title)

Date:

4/7/17

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