

**AMENDMENT NO. 2
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS AMENDMENT NO. 2 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; Hamlin 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 County and PROJECT APPLICANTS are referred to as the "Parties").

WHEREAS, PROJECT APPLICANTS entered into a Funding Agreement with County on February 9, 2011 (hereinafter, "Agreement"); and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"); and

WHEREAS, an Environmental Impact Report (EIR) is required for the Moss Landing Community Plan Update (hereinafter, "PROJECT"); and

WHEREAS, County engaged CONTRACTOR to prepare the EIR; and

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

WHEREAS, additional time is necessary to allow CONTRACTOR to complete tasks that require review, completion and inclusion into the EIR; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2013 with no associated dollar amount increase to continue to allow funding by the PROJECT APPLICANTS to the County for costs incurred by CONTRACTOR and County Departments to continue to provide tasks identified in the Agreement for completion of the EIR for the PROJECT.

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

Amendment No. 2 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning Department
Term: May 4, 2010 – May 31, 2013
Not to Exceed: \$334,466.50

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, 2013, any unearned balance of the \$242,236.70 deposited by PROJECT APPLICANTS to fund the base contract of CONTRACTOR shall be returned to PROJECT APPLICANTS within sixty 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, 2013, unless terminated 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, 2013, but may be terminated earlier by PROJECT APPLICANTS or COUNTY, by giving thirty (30) days’ written notice to the other.

4. All other terms and conditions of the Agreement remain unchanged and in full force.

5. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

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Moss Landing Community Plan Update EIR
RMA – Planning Department
Term: May 4, 2010 – May 31, 2013
Not to Exceed: \$334,466.50

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 2 as follows:

THE COUNTY OF MONTEREY

By: *Neil M*
Director of Planning

Date: 6/4/12

PROJECT APPLICANT*

Elkhorn Slough Foundation

By: *Steven J Dennis*
(Signature)

Its: Steven J. Dennis, Vice President
(Print Name and Title)

Date: 5/23/12

By: _____
(Signature)

Its: Steven F. Green, Secretary
(Print Name and Title)

Date: _____

Approved as to Form and Legality
Office of the County Counsel

By: *Cynthia L. Jacob*
Deputy County Counsel

Date: 6-1-12

*INSTRUCTIONS: IF 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 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 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.

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THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT*
Elkhorn Slough Foundation

By: _____
(Signature)

Its: Steven J. Dennis, Vice President
(Print Name and Title)

Date: _____

By: Steven F. Green
(Signature)

Its: Steven F. Green, Secretary
(Print Name and Title)

Date: May 24, 2012

Approved as to Form and Legality
Office of the County Counsel

By: _____
Deputy County Counsel

Date: _____

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PROJECT APPLICANT*

Hamlin Properties, LLC

By:

Nathan A. Sawyer
(Signature)

Its:

Nathan A. Sawyer, Member

(Print Name and Title)

Date:

5/22/12

By:

Kim Solano
(Signature)

Its:

Kim Solano, Member

(Print Name and Title)

Date:


5/22/12

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PROJECT APPLICANT*

Monterey Bay Aquarium Research Institute

By: 
(Signature)

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

Date: May 21, 2012

By: 
(Signature)

Its: C MICHAEL PINTO
James R. Rehkopf, CFO
(Print Name and Title)

Date: 5/21/12

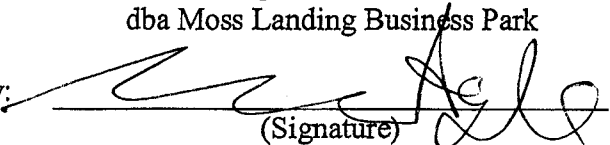
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PROJECT APPLICANT*

Moss Landing Commercial Park, LLC
dba Moss Landing Business Park

By:


(Signature)

Its:

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

Date:

May 23, 2012

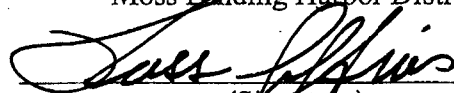
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PROJECT APPLICANT*

Moss Landing Harbor District

By:


(Signature)

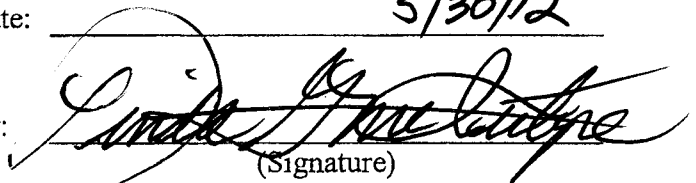
Its:

Russ Jeffries, Board President
(Print Name and Title)

Date:

5/30/12

By:


(Signature)

Its:

Linda G. McIntyre, Board Secretary
(Print Name and Title)

Date:

5/30/12

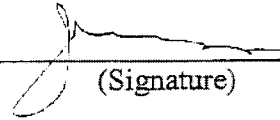
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PROJECT APPLICANT*

Quin Delta, LLC

By:



(Signature)

Its:

John Gregg, Manager

(Print Name and Title)

Date:

5/23/2012

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PROJECT APPLICANT*

San Jose State University Research Foundation

By: Pamela C. Stacks
(Signature)

Its: Pamela C. Stacks, Vice President
~~Gerry Soller, President and Board Chair~~
SJSURF
(Print Name and Title)

Date: 5/22/2012

By: Mary Sidney
(Signature)

Its: Mary Sidney, COO and Secretary of the
Board SJSURF
(Print Name and Title)

Date: 5/23/2012

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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:

5/23/12

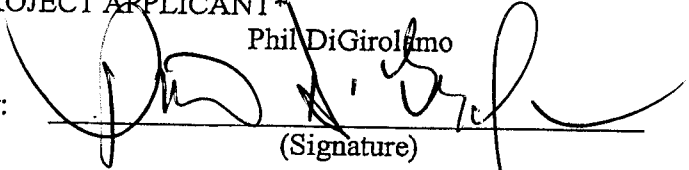
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PROJECT APPLICANT*

Phil DiGirolamo

By:


(Signature)

Its:

Phil DiGirolamo, Owner

(Print Name and Title)

Date:

5/23/12

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