

# Attachment C

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**AMENDMENT NO. 8  
TO FUNDING AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
VARIOUS PROJECT APPLICANTS  
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE  
ENVIRONMENTAL IMPACT REPORT**

**THIS AMENDMENT NO. 8** 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**, an Environmental Impact Report (EIR) is required for the Moss Landing Community Plan Update (hereinafter, “Project”); and

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

**WHEREAS**, PROJECT APPLICANTS entered into a Funding Agreement with County on February 9, 2011 (hereinafter, “Agreement”) to provide funding for an EIR for the 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 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**, Agreement was amended by the Parties on May 23, 2017 (hereinafter, “Amendment No. 7”) to extend the term for one (1) additional year through May 31, 2018 with no increase in the not to exceed amount; and

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

**WHEREAS**, additional time and funding are necessary to allow Contractor to continue to provide additional services associated with Task 1, Administration/Management; Task 3, Prepare Complete and Detailed Project Description; Task 5, Prepare Technical Studies; Task 7, Proof Draft EIR, and the addition of Task 12, Optional Tasks, for completion of the Project; and

**WHEREAS**, the additional services will be funded by the County; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term for four (4) additional months to September 30, 2018 and increase the amount by \$91,500.00 for a total not to exceed \$565,088.00 to allow County funding for costs incurred by Contractor to complete Tasks 1, 3, 5, 7 and 12 for completion of the Project as identified in the Agreement and as amended by this Amendment No. 8.

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

1. Amend Paragraph B of “Recitals”, to read as follows:

Due to the magnitude and complexity of THE PROJECT, the Parties, in conjunction with the Resource Management Agency (RMA) – Public Works and Facilities, have agreed that it is necessary and desirable that COUNTY engage EMC Planning Group, Inc., hereinafter, “CONTRACTOR”, to prepare an Environmental Impact Report, hereinafter, “EIR”, attend public hearings and meetings on THE PROJECT, and perform related work. CONTRACTOR shall perform the Scope of Work specified in the Professional Services Agreement between COUNTY and CONTRACTOR, attached to this AGREEMENT as Exhibits “1”, “1A” and “1B”, and incorporated herein by reference as if fully set forth. COUNTY shall manage THE PROJECT work performed by CONTRACTOR.

2. Amend Paragraph C of “Recitals”, to read as follows:

The Parties hereby agree that COUNTY shall engage CONTRACTOR to provide the services set forth in Exhibits “1”, “1A” and “1B” of this AGREEMENT.

3. Amend Paragraph I of “Recitals”, to read as follows:

The Parties acknowledge that the County of Monterey, RMA – Land Use and Community Development will fund the CONTRACTOR’s Base budget as set forth in Exhibits “1A” and “1B” of this AGREEMENT.

4. Amend Paragraph 1, “**Maximum Budget for THE PROJECT**”, to read as follows:

1. **Maximum Budget for THE PROJECT.** The maximum amount assessed for THE PROJECT is increased in the amount of \$91,500, for a total amount not to exceed \$565,088.00:

CONTRACTOR’s Base Budget:	<b>\$254,986.00</b>
COUNTY Deposit (based on time and materials):	\$ 53,140.00
COUNTY Deposit: (based on percentage of CONTRACTOR’s Base Budget and Project Contingency):	<u>\$ 51,000.00</u>
<b>SUBTOTAL OF COUNTY DEPOSIT:</b>	<b>\$104,140.00</b>
Project Contingency:	<b>\$ 45,014.00</b>
CONTRACTOR’s Base Budget (based on Amendment No. 6):	<b>\$ 69,448.00</b>
CONTRACTOR’s Base Budget (based on Amendment No. 8):	<b>\$ 91,500.00</b>
<b><u>Maximum Budget Under AGREEMENT:</u></b>	<b><u>\$565,088.00</u></b>

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

COUNTY shall engage CONTRACTOR in accordance with the Professional Services Agreement between COUNTY and CONTRACTOR, attached hereto and incorporated by this reference as Exhibits “1”, “1A” and “1B”.

6. 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 September 30, 2018, any unearned balance of the \$242,236.70 deposited by the PROJECT APPLICANTS to fund the base Professional Services Agreement 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.

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

AGREEMENT shall become effective May 4, 2010 and continue through September 30, 2018, unless terminated earlier by PROJECT APPLICANTS or COUNTY pursuant to Paragraph 10 or amended pursuant to Paragraph 14 of AGREEMENT.

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

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

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

Jacqueline R. Onciano  
Chief of Planning Services  
County of Monterey  
Resource Management Agency – Land Use and Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

10. All other terms and conditions of the Agreement remain unchanged and in full force.
11. This Amendment No. 8 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
12. The recitals to this Amendment No. 8 are incorporated into the Agreement and this Amendment No. 8.

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 8 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: \_\_\_\_\_  
Jacqueline R. Onciano  
Chief of Planning Services

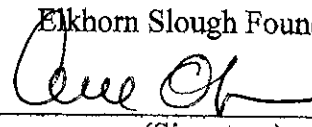
Date: \_\_\_\_\_

Approved as to Form and Legality  
Office of the County Counsel

By:   
Brian P. Briggs  
Deputy County Counsel

Date: 10-26-17

PROJECT APPLICANTS\*

Elkhorn Slough Foundation  
By:   
\_\_\_\_\_  
(Signature)

Its: Anne Olsen, President  
(Print Name and Title)

Date: 10-16-17

Approved as to Fiscal Provisions

By:   
\_\_\_\_\_  
Auditor/Controller

Date: 10-27-17

By: \_\_\_\_\_  
(Signature)

Its: Robert Hartmann, Secretary  
(Print Name and Title)

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

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

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 8 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: \_\_\_\_\_  
Jacqueline R. Onciano  
Chief of Planning Services

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

Approved as to Form and Legality  
Office of the County Counsel

By:   
Brian P. Briggs  
Deputy County Counsel

Date: 10-26-17

PROJECT APPLICANTS\*  
Elkhorn Slough Foundation

By: \_\_\_\_\_  
(Signature)

Its: Anne Olsen, President  
(Print Name and Title)

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

Approved as to Fiscal Provisions

By: \_\_\_\_\_  
Auditor/Controller

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

By:   
(Signature)

Its: Robert Hartmann, Secretary  
(Print Name and Title)

Date: 10-16-17

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



PROJECT APPLICANT\*

Haute Properties, LLC

By:



(Signature)

Its:

Kim Solano, Owner, Managing Member

(Print Name and Title)


Date:

9/26/17

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PROJECT APPLICANT\*

Monterey Bay Aquarium Research Institute

By:   
(Signature)

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

Date: 9/25/17

By:   
(Signature)

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


Date: 9-25-17

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PROJECT APPLICANT\*

Moss Landing Commercial Park, LLC  
dba Moss Landing Business Park

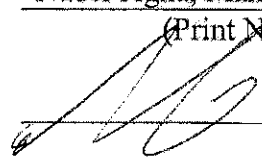
By:

  
(Signature)

Its:

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


Date:

 10/24/17

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

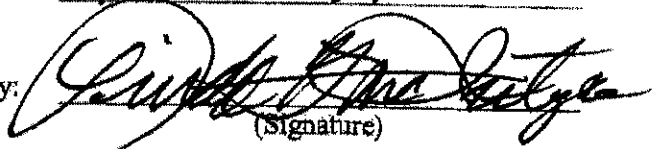
PROJECT APPLICANT\*

Moss Landing Harbor District

By:   
(Signature)

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

Date: 10.25.17

By:   
(Signature)

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

Date: 10.26.17

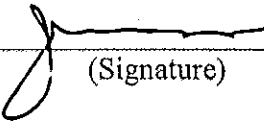
\*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability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

Amendment No. 8 to Funding Agreement  
Moss Landing Community Plan Update EIR Participants  
Moss Landing Community Plan Update EIR  
RMA - Planning  
Term: May 4, 2010 - September 30, 2018  
Not to Exceed: \$334,466.50  
Not to Exceed (Overall Amount): \$565,088.00

PROJECT APPLICANT\*

Quin Delta, LLC

By:

  
\_\_\_\_\_  
(Signature)

Its:

John Gregg, Manager /Member  
\_\_\_\_\_  
(Print Name and Title)

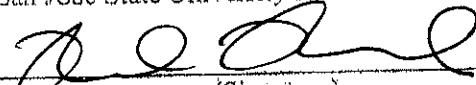
Date:

9/26/2017  
\_\_\_\_\_

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


PROJECT APPLICANT\*

San Jose State University Research Foundation

By:   
Rajnesh Prasad (Signature)

Its: Interim Exec. Director & Secretary of the Board, SJSURF  
(Print Name and Title)

Date: 9/26/17

By:   
(Signature)

Its: Pamela C. Stacks, AVP of Research, SJSU & Vice President of the Board, SJSURF  
(Print Name and Title)

Date: 9/27/2017

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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:

9/27/17

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PROJECT APPLICANT\*

Phil DiGirolamo

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

(Signature)

Its: \_\_\_\_\_

Phil DiGirolamo, Owner

(Print Name and Title)

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

October 2, 2017

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



# **EXHIBIT 1B**

**AMENDMENT NO. 8 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**

# **EXHIBIT 1B**

**AMENDMENT NO. 8 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**

**AMENDMENT NO. 8  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
EMC PLANNING GROUP, INC.**

**THIS AMENDMENT NO. 8** to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EMC Planning Group, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

**WHEREAS**, CONTRACTOR entered into a Professional Services Agreement with County on February 9, 2011 (hereinafter, "Agreement") to provide an Environmental Impact Report (EIR) for the Moss Landing Community Plan Update (hereinafter, "Project") through May 31, 2011 for an amount not to exceed \$300,000; 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 5, 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

**WHEREAS**, Agreement was amended by the Parties on July 31, 2015 (hereinafter, "Amendment No. 6"; including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the amount by \$69,448 which resulted in a total not to exceed amount of \$369,448 with no extension to the term; and

**WHEREAS**, Agreement was amended by the Parties on May 23, 2017 (hereinafter, "Amendment No. 7") to extend the term for one (1) additional year through May 31, 2018 with no increase in the not to exceed amount; and

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

**WHEREAS**, additional time and funding are necessary to allow CONTRACTOR to continue to provide additional services associated with Task 1, Administration/Management; Task 3, Prepare Complete and Detailed Project Description; Task 5, Prepare Technical Studies; Task 7, Proof Draft EIR, and the addition of Task 12, Optional Tasks, for completion of the Project; and

**WHEREAS**, the additional services will be funded by the County; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term for four (4) additional months to September 30, 2018 and increase the amount by \$91,500 for a total not to exceed \$460,948 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 8.

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

1. Amend the first sentence of Paragraph 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, A-1 and A-2** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, "**Payments by County**", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1 and A-2**, 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 \$460,948.

3. Amend the first sentence of Paragraph 3, "**Term of Agreement**", to read as follows:

The term of this Agreement is from May 4, 2010 to September 30, 2018, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, "**Additional Provisions/Exhibits**", by adding "Exhibit A-2, Scope of Services/Payment Provisions".

5. The "Schedule" referenced in the Agreement, Exhibit A – Scope of Services/Payment Provisions is hereby amended to extend through September 30, 2018, to conform to the amended term of the Agreement.

6. In all places within the Agreement, any reference to the County's address at 168 West Alisal Street, 2<sup>nd</sup> Floor, Salinas, California, 93901, is hereby replaced with 1441 Schilling Place, South 2<sup>nd</sup> Floor, Salinas, California, 93901-4527

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

8. This Amendment No. 8 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

9. The recitals to this Amendment No. 8 are incorporated into the Agreement and this Amendment No. 8.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 8 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: \_\_\_\_\_  
Jacqueline R. Onciano  
Chief of Planning Services

\_\_\_\_\_ EMC Planning Group, Inc.  
Contractor's Business Name

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

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

Its: \_\_\_\_\_  
(Print Name and Title)

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

**Approved as to Form and Legality  
Office of the County Counsel**

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

By: \_\_\_\_\_  
Brian P. Briggs  
Deputy County Counsel

Its: \_\_\_\_\_  
(Print Name and Title)

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

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

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_  
Auditor/Controller

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

**Approved as to Indemnity and Insurance Provisions**

By: \_\_\_\_\_  
Risk Management

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

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

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between  
County of Monterey, hereinafter referred to as "County"  
and  
EMC Planning Group, Inc., hereinafter referred to as "CONTRACTOR"

### BACKGROUND

CONTRACTOR shall provide additional effort and out-of-scope costs associated with the preparation of the Moss Landing Community Plan Update (Project) Environmental Impact Report (EIR). Specific out-of-scope costs are related to additional water supply study revisions, revisions to the EIR related to changes in the Project Description, preparation of additional proof drafts of the EIR, and additional administrative time related to these out-of-scope costs and length of the Agreement term.

A detailed description of the methodology to be used to continue to prepare this EIR is included in the scope presented below.

### A. SCOPE OF SERVICES

CONTRACTOR shall provide additional services and staff, and otherwise do all things necessary for or incidental to the performance of work to update the tasks associated with the Project, as set forth below:

#### Task 1: Administration/Management

##### Task 1.5 Administrative Time

An Agreement between County and CONTRACTOR for this Project was approved by the County Board of Supervisors for the Project on January 11, 2011. The Agreement was executed on February 9, 2011 with an Agreement term of May 4, 2010 to May 31, 2011. In accordance with the terms on page 35 of the Agreement, CONTRACTOR requests an amendment to the Agreement due to the significant expansion of the original scope and term of the Agreement. CONTRACTOR requests an additional administrative budget in the amount of \$19,500 for additional administrative work through the upcoming Agreement term (through September 30, 2018) to complete the Project.

Please refer to the summary tables at the end of this scope and the attached spreadsheet.

#### Task 3 Prepare Complete and Detailed Project Description

##### 3.3 Past Changes to the Project Description

CONTRACTOR received full authorization to proceed on the EIR for the Project from County on September 19, 2012 (a partial authorization was provided earlier for preliminary Biological Resources work). Throughout the course of the Project, the Project Description changed repeatedly, resulting in unanticipated changes to the EIR. A chronology of key Project Description changes and milestone events that have occurred during CONTRACTOR's work on the Project are as follows:

**EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

October 18, 2012	Updated Community Plan
January 22, 2013	Plans from Moss Landing Marine Lab (MLML) do not match those in Community Plan
February 15, 2013	County Roads Project Description received
March 6, 2013	CONTRACTOR finalizes Notice of Preparation (NOP) Project Description
March 11, 2013	Quin Delta, LLC/Gregg Drilling (Gregg) site expanded to north (contingency transfer)
April 8, 2013	Revised design guidelines received
April 8, 2013	Build-out table version 4 replaces Table ML-2. Buildout Estimate
April 15, 2013	NOP distributed
May 10, 2013	Additional information regarding Monterey Bay Aquarium Research Institute (MBARI)
May 13, 2013	Build-out table version 5 replaces version 4
June 26, 2013	Build-out table version 6 replaces version 5
January 2, 2014	Administrative Draft EIR delivered to County
April 17, 2014	Public Works requests Traffic Impact Analysis (TIA) revisions (Amendment No. 6 to Agreement)
April 21, 2014	Revised Land Use Map
May 6, 2014	Updated Community Plan
June 5, 2014	Summary of Community Plan changes
July 1, 2014	Proof Draft EIR delivered to County



**EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

August 12, 2014	Revised seawater intake figure provided for Business Park
March 9, 2015	Request for revised TIA, Noise, Water, and Greenhouse Gas (GHG) analysis - Amendment No. 6 to Agreement
April 9, 2015	Build-out table version 7 replaces version 6
April 21, 2015	Revised NOP circulated
May 6, 2015	Revised Draft Community Plan and Implementation Plan
June 8, 2015	County mark-up of Proof Draft EIR Project Description
August 5, 2015	Build-out table version 8 replaces version 7
September 28, 2015	Build-out table version 9 replaces version 8
September 28, 2015	New plans for Phil's Fish Market at Gregg site
September 10, 2015	Revisions to Phil's Fish Market and Gregg description
December 7, 2015	Build-out table version 9a per Todd Groundwater corrections

Most of the Project Description changes have been individually small and incremental, but cumulatively significant in terms of additional accumulated cost. The difficulty of attempting to assess an ever-changing Project Description has been time consuming and costly. CONTRACTOR has estimated at least fourteen (14) changes to the Project Description which resulted in at least three (3) hours of additional work for each Project Description change at a rate of \$200 per hour. These Project Description changes amount to an increase of \$8,400.00.

**Task 5 Prepare Technical Studies**

**5.1 Conduct TIA (Fehr & Peers)**

**5.1. a Traffic Count Update**

County Traffic Engineer reviewed the TIA and draft components of the State Route 1 Corridor Study and determined that the traffic counts used in those efforts are dated. Therefore, County's Traffic Engineer requested that new counts be conducted to validate the data used in the preparation of the TIA and Corridor Study. New counts shall be conducted at four (4) intersections during the morning and evening commute periods, and a memorandum documenting findings with respect to the validity of the traffic count data shall be prepared by CONTRACTOR. Preparation of any additional traffic operations analysis or evaluations of mitigation measures is not included.

**5.4 Senate Bill (SB) 610 Water Supply Assessment (Todd Engineers)**

**5.4.a Water Supply Study**

As part of County's preparation of the second Proof Draft EIR, CONTRACTOR's sub-consultant, Todd Engineers, was requested to make changes to the water supply report to reflect Project changes. The cost of this additional work is reflected in the scope of the Agreement. However, while undertaking this task, Todd Engineers discovered discrepancies in the Project build-out table, which the



## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

County then corrected (the corrected build-out table was identified as table version 9a). As a result of this change in the Project build-out table, additional funding is required to allow Todd Engineers to re-do the analysis of the water supply report.

### Task 7 Proof Draft EIR

#### 7.3 Additional Proof Draft EIR

CONTRACTOR's scope includes a proof Draft EIR, which was completed and submitted to County on June 30, 2014. More than ten (10) months after submittal of the proof Draft EIR, on May 16, 2015, County completed extensive changes to the Community Plan (and by extension the EIR Project Description) which necessitated preparation of a second proof Draft EIR. In anticipation of the changes to the Community Plan, County issued a revised NOP on April 21, 2015.

County also made changes to the EIR Word files to reflect the revised Community Plan and returned those to CONTRACTOR for review, acceptance, formatting, and production. Per County request, CONTRACTOR reviewed and began work on finalizing the second proof Draft EIR, which required considerable editing, formatting, and the creation of new graphics. The level of effort was far in excess of that expected for a proof Draft EIR, and included significant changes that had not been directed when the Administrative Draft was reviewed and the first proof Draft EIR was prepared. Work on the second proof Draft EIR is not included in the original scope. Some of CONTRACTOR's work was completed, and additional work remained to be completed before County staffing assignments changed and work was effectively stopped on the Project at the end of March 2016. The work expended on the second proof Draft EIR is summarized in the following table:

County has subsequently determined that additional changes to the Community Plan are required. Given the changes in the Project over time, CONTRACTOR recommends preparation of a second Administrative Draft EIR, followed by a final proof Draft EIR. CONTRACTOR anticipates the following additional tasks shall be required to finalize the second Administrative Draft EIR:

- Review revised Community Plan (and related Implementation Plan and Design Guidelines), noting changes from the October 2012 version on which the Administrative Draft and first proof Draft EIR were based;
- Review current Project plans for MBARI, MLML, Gregg, and County Road and Drainage project, noting changes from projects as described in the Administrative Draft and first proof Draft EIR;
- Prepare redline file comparing first proof Draft EIR with in-progress second proof Draft EIR to identify significant changes, and determine extent to which second proof Draft EIR changes should be carried forward;
- Update Project Description and associated figures;
- Update NOP references to reflect issuance of second NOP and additional NOP comments, and ensure that comments in response to the second NOP have been addressed;
- Confirm status of the 1984 sewer allocation system;
- Update the environmental and regulatory settings throughout EIR;
- Review EIR analysis for consistency with revised Project Description, noting in

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- particular any mitigation measures from the initial proof Draft EIR that have been included within the Community Plan as policy, and making changes as necessary;
- Update GHG Emissions Section to current analysis and threshold methodologies;
  - Confirm analysis and impact assessment approach for water supply;
  - Confirm analysis and impact assessment approach for State Route 1 level of service;
  - Update the Transportation Section based on the completed State Route 1 Corridor Study and revised TIA;
  - Update the alternatives text and table to the extent that any changes to the Project Description or analysis may affect comparison of alternatives to the Project;
  - Update sources and references;
  - Update the summary and summary table to reflect all other changes;
  - Meet with County staff to discuss Project changes, approaches, and/or review work products [one (1) meeting]; and
  - Conduct a follow-up site visit to confirm and update conditions.

The second Administrative Draft EIR shall be submitted to County electronically. The second Administrative Draft EIR shall include a list of appendices, but the actual appendices shall not be included.

A final proof Draft EIR shall be prepared to reflect County comments on the second Administrative Draft EIR. The proof Draft EIR shall be submitted to the County electronically and five (5) printed copies shall be submitted with appendices on a CD (which will be inserted in a sleeve inside the rear cover of the document).

CONTRACTOR shall produce the above mentioned deliverables to the following individual:

Brandon Swanson, RMA Services Manager  
County of Monterey  
Resource Management Agency (RMA) – Land Use and Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor, Salinas, California 93901-4527  
Email: [swansonb@co.monterey.ca.us](mailto:swansonb@co.monterey.ca.us)  
Telephone: (831) 755-5334

Please refer to the “Summary of All Request Items” table and the attached Cost Proposal.

### Task 12 Optional Tasks

The following optional tasks were suggested but not included in the original Agreement.

- Notice of Completion, Notice of Availability, and Notice of Determination – Preparation and Circulation (does not include filing fees)
- Prepare draft California Environmental Quality Act (CEQA) Findings and Statement of Overriding Considerations for County finalization
- Attend one (1) additional Moss Landing Community Plan Committee and/or Community Meeting (includes mileage cost at the standard IRS mileage rate)

Optional services described above shall not be provided unless authorized in writing by County’s Project Planner and Project Applicant prior to optional services provided.

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Request Summary

For this amendment request, CONTRACTOR continues to honor the 2009 rate schedule that was in effect when the Agreement was originated. Staff assignments have been updated to current positions. Please also refer to the attached Cost Proposal.

Summary of All Request Items	
Item	Request
Excess Administrative Time – Past	\$10,500.00
Excess Administrative Time – Future	\$9,000.00
Past Changes to the Project Description	\$8,400.00
Traffic Count Update	\$8,400.00
Water Supply Study Revisions	\$2,714.00
Work to Date on Second Proof Draft EIR	\$7,471.00
Second Administrative Draft EIR	\$30,930.00
Final Proof Draft EIR	\$6,135.00
<b>Total</b>	<b>\$83,550.00</b>
Optional Tasks	\$7,950.00
<b>GRAND TOTAL</b>	<b>\$91,500.00</b>

For all deliverables related to this scope, CONTRACTOR shall provide the revised reports and or data outputs in electronic format to County. The following tables provide summaries of the individual request items:

**EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

<u>Excess Administrative Time – Past</u>	
Item	Request
2010-2011 Administrative Time – No Request – covered by the original	\$0.00
2011-2012 Administrative Time	\$3,500.00
2012-2013 Administrative Time	\$3,500.00
2013-2014 Administrative Time – No Request – received with transfer dated 2/5/2014	\$0.00
2014-2015 Administrative Time	\$3,500.00
2015-2016 Administrative Time – No Request – received with CA#6 dated 6/9/2015	\$0.00
2016-2017 Administrative Time – Nor Request – received with CA#6 dated 6/9/2015	\$0.00
<b>Total</b>	<b>\$10,500.00</b>

<u>Excess Administrative Time – Future</u>	
Item	Request
2017-2018 Administrative Time	\$9,000.00
<b>Total</b>	<b>\$9,000.00</b>

<u>Changes to the Project Description</u>	
Item	Request
Changes not yet covered	\$8,400.00
<b>Total</b>	<b>\$8,400.00</b>

<u>Traffic Count Update</u>	
Item	Request
Fehr and Peers Counts and Memo	\$8,000.00
Subconsultant Overhead 5%	\$400.00
<b>Total</b>	<b>\$8,400.00</b>

**EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

<b><u>Water Supply Study Revisions</u></b>	
Item	Request
Todd Groundwater extra analysis	\$1,632.00
Subconsultant Overhead 5%	\$82.00
EMC Planning Group EIR edits	\$1,000.00
<b>Total</b>	<b>\$2,714.00</b>

<b><u>Work to Date on Second Proof Draft</u></b>	
Item	Request
Editing and formatting	\$5,523.00
Graphics revisions	\$1,948.00
<b>Total</b>	<b>\$7,471.00</b>

<b><u>Second Administrative Draft and Final Proof Draft</u></b>	
Item	Request
Second Administrative Draft	\$30,930.00
<b>Total</b>	<b>\$30,930.00</b>
ProofDraft	\$6,135.00
<b>Total</b>	<b>\$6,135.00</b>

The following table provides a summary of Optional Tasks.

<b><u>Summary of Optional Tasks</u></b>	
CEQA Notices (not including NOD filing fees)	\$1,500.00
Draft CEQA Findings and Statement(s) of Overriding Considerations	\$4,550.00
Moss Landing Community Plan Committee or Community Meetings (each including/paid at the standard IRS mileage rate)	\$1,900.00
<b>Total</b>	<b>\$7,950.00</b>

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Delivery Schedule

CONTRACTOR shall prepare a fully revised schedule of tasks beginning with a second Administrative Draft EIR once Amendment No. 8 to the Agreement is approved. CONTRACTOR estimates from delivery of the updated Community Plan and authorization to continue work through completion of the Final EIR will take approximately six (6) months.

### B. PAYMENT PROVISIONS

#### B.1 COMPENSATION/PAYMENT

County shall pay an additional amount not to exceed \$91,500 for a total amount not to exceed \$460,948 (Base budget amount of \$415,934 and Contingency budget amount of \$45,014) for the performance of all things necessary for or incidental to the performance of work as set forth in Exhibit A-2, Scope of Services/Payment Provisions. CONTRACTOR's compensation for services rendered shall be based on the tasks listed above and in following Cost Proposal.

There shall be no travel reimbursement allowed during this Agreement.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged any other client for the same services performed by the same individuals.

**EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

Invoices for work products / deliverables under the Agreement shall be submitted when the work product is complete, shall identify the document or work product being delivered and shall include the following:

**1. Invoice Coversheet**

**EMC Planning Group, Inc.**  
**Moss Landing Community Plan Update Environmental Impact Report**

Date: \_\_\_\_\_ Invoice No. \_\_\_\_\_

*Original Agreement Term:* May 4, 2010 to May 31, 2011  
*Original Agreement Amount:* \$ 300,000.00 (\$254,986.00 base budget plus \$45,014.00 project contingency)  
*Amendment No. 1:* Term Extension to May 31, 2012  
*Amendment No. 2:* Term Extension to May 31, 2013  
*Amendment No. 3:* Term Extension to May 31, 2014  
*Amendment No. 4:* Term Extension to May 31, 2015  
*Amendment No. 5:* Term Extension to May 31, 2017  
*Amendment No. 6:* \$69,448.00 (\$69,448.00 base budget plus \$0 project contingency)  
*Amendment No. 7:* Term Extension to May 31, 2018  
*Amendment No. 8:* \$91,500 (\$91,500.00 base budget plus \$0 project contingency)  
 Term Extension to September 30, 2018

*This Invoice:*

		<b>Task 1: Administration/Management</b>	
\$	10,500.00	Administrative Time (Past)	_____
\$	9,000.00	Administrative Time (Future)	_____
		<b>Task 3: Prepare Complete and Detailed Project Description</b>	
\$	8,400.00	3.3 Past Changes to the Project Description	_____
		<b>Task 5: Prepare Technical Studies</b>	
		5.1 Conduct TIA (Fehr & Peers)	
\$	8,400.00	5.1.a Traffic Count Update	_____
		5.4 Senate Bill (SB) 610 Water Supply Assessment (Todd Engineers)	
\$	2,714.00	5.4.a Water Supply Study	_____
		<b>Task 7: Proof Draft EIR</b>	
		7.3 Additional Proof Draft EIR	
\$	7,471.00	Work to Date on Second Proof Draft EIR	_____
\$	30,930.00	Second Administrative Draft EIR	_____

**EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

\$	6,135.00	Final Proof Draft EIR	_____
\$	7,950.00	Task 12: Optional Tasks	_____
		CEQA Notices (\$1,500.00)	_____
		Draft CEQA Findings and Statement(s) of Overriding Considerations (\$4,550.00)	
		Moss Landing Community Plan Committee or Community Meetings (\$1,900.00)	

**Total:** \_\_\_\_\_

Remaining Balance \$ \_\_\_\_\_

Approved as to Work/Payment: \_\_\_\_\_ Date: \_\_\_\_\_  
Brandon Swanson, RMA Services Manager

**2. Invoice Detail**

Each invoice shall indicate the hours worked by task and by staff member, with the corresponding billing rates.

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 Project name and an original hardcopy shall be sent to the following:

County of Monterey  
Resource Management Agency (RMA) – Finance Division  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement shall be directed to the RMA Finance Division at (831) 755-4800.



EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Moss Landing Community Plan Update EIR CA#8											
EMC Planning Group Inc.											
Task	Sr. Principal	Principal	Principal Planner	Senior Planner	Senior Planner	Associate Planner	Assistant Planner	Production	Administrative	Total Hours	Total Cost
	\$235.00	\$200.00	\$150.00	\$125.00	\$125.00	\$125.00	\$85.00	\$125.00	\$75.00		
<b>Task 1:</b>											
Administration FYs 2011-12, 13-14, 15	10	31	0	0	0	0	0	0	0	6	\$10,500.00
Administration FY 2017-2018											\$8,000.00
<b>Task 3:</b>											
Changes to the Project Description											
<b>Task 5:</b>											
Water Supply Study Revisions	0	5	0	0	0	0	0	0	0	5	\$8,400.00
<b>Task 7:</b>											
Work to Date on Second Proof Draft											
<b>Second Admin and Final Proof Draft EIRs</b>											
Review revised Community Plan	0	8	0	0	0	0	0	0	0	8	\$1,600.00
Review current project plans	0	8	0	0	0	0	0	0	0	8	\$1,600.00
Prepare redline file	0	8	0	0	0	0	0	0	0	8	\$1,600.00
Adjust EIR project description	1	8	0	0	0	0	0	0	0	11	\$2,085.00
Update NCP references	0	3	0	0	0	0	0	0	0	3	\$600.00
Confirm status of the 1984 sewer allocation syst	0	1	0	0	0	0	0	0	0	1	\$200.00
Update environmental/regulatory settings	0	1	0	0	0	0	0	0	0	1	\$200.00
Review/adjust EIR analysis	3	40	0	0	0	0	0	0	0	43	\$8,600.00
Update greenhouse gas emissions section	1	30	0	0	0	0	0	0	0	31	\$6,200.00
Confirm approach on waterfalls	1	1	0	0	0	0	0	0	0	2	\$400.00
Update the transportation section	0	8	0	0	0	0	0	0	0	8	\$1,600.00
Update alternatives section	0	6	0	0	0	0	0	0	0	6	\$1,200.00
Update sources and references	0	3	0	0	0	0	0	0	0	3	\$600.00
Update summary	0	0	0	0	0	0	0	0	0	0	
Meeting with Staff	5	5	0	0	0	0	0	0	0	10	\$2,175.00
Follow-up Site Visit	0	5	0	0	0	0	0	0	0	5	\$1,000.00
Final Proof Draft	12	24	0	0	0	0	0	0	0	36	\$7,200.00
<b>Subtotal (Hours)</b>	13	158	0	0	0	0	0	0	0	171	\$34,200.00
<b>Subtotal (Cost)</b>	\$3,055.00	\$31,800.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,875.00	\$150.00	188	\$73,051.00
<b>Additional Costs</b>											
<b>Task 7:</b>											
Production Costs											\$100.00
Travel Costs											\$100.00
Postal/Deliverables											\$50.00
Miscellaneous											\$100.00
<b>Administrative Overhead 10%</b>											\$35.00
<b>Total</b>											\$385.00
<b>Task 5:</b>											
<b>Subconsultants</b>											
Todd Groundwater											\$1,632.00
Fair and Peers											\$8,000.00
<b>Subconsultant Overhead 5%</b>											\$482.00
<b>Total</b>											\$10,114.00
<b>Total Costs</b>											\$83,550.00
<b>Optional Tasks</b>											
<b>Task 12:</b>											
CEQA Notices and Circulation											\$1,500.00
CEQA Findings/SOC											\$4,550.00
MLCP Committee/Community Meeting (1 mg)											\$1,900.00
<b>Total</b>											\$7,950.00
<b>GRAND TOTAL</b>											\$91,500.00

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