

Attachment E

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**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Agreement No.: A-11914; A-11927

- a. Approve a Professional Services Agreement with EMC Planning Group, Inc. (EMC) where the Base Budget is \$254,986 with a Contingency of \$45,014, for a total amount not to exceed \$300,000, to provide the Moss Landing Community Plan Update Environmental Impact Report (EIR) (PD080541) in Moss Landing, for a term through May 31, 2011; and)
- b. Approve a Funding Agreement with various Project Applicants where the Project Applicants' portion of the Base Budget is \$242,237 with a Contingency of \$42,763 and Deposits for County Staff services are \$49,467, for a total amount not to exceed \$334,467, to allow funding to Monterey County for costs incurred by EMC and County departments to provide the Moss Landing Community Plan Update EIR (PD080541) in Moss Landing, for a term through May 31, 2011; and)
- c. Authorize the Director of Planning to execute the Professional Services Agreement, Funding Agreement and future amendments to these Agreements that do not significantly alter the scope of work or change the approved Agreement amounts.)
(PD060200/EMC Planning Group, Inc.))

Upon motion of Supervisor Armenta, seconded by Supervisor Potter, and carried by those members present, the Board of Supervisors hereby:

- a. Approved a Professional Services Agreement with EMC Planning Group, Inc. (EMC) (A-11914) where the Base Budget is \$254,986 with a Contingency of \$45,014, for a total amount not to exceed \$300,000, to provide the Moss Landing Community Plan Update Environmental Impact Report (EIR) (PD080541) in Moss Landing, for a term through May 31, 2011; and

- b. Approved a Funding Agreement (A-11927) with various Project Applicants where the Project Applicants' portion of the Base Budget is \$242,237 with a Contingency of \$42,763 and Deposits for County Staff services are \$49,467, for a total amount not to exceed \$334,467, to allow funding to Monterey County for costs incurred by EMC and County departments to provide the Moss Landing Community Plan Update EIR (PD080541) in Moss Landing, for a term through May 31, 2011; and
- c. Authorized the Director of Planning to execute the Professional Services Agreement, Funding Agreement and future amendments to these Agreements that do not significantly alter the scope of work or change the approved Agreement amounts.

PASSED AND ADOPTED this 11th day of January 2011, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, 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 75 for the meeting on January 11, 2011.

Dated: January 21, 2011
Revised: February 10, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**FUNDING AGREEMENT
FOR THE
MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS FUNDING AGREEMENT, hereinafter, "AGREEMENT", is made and entered by and 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 Harbor District; Quin Delta, LLC; San Jose State University Research Foundation; ~~Dennis-Keith Family, LP~~ Investments, LLC and/or assignee; and Phil DiGirolamo, hereinafter, "PROJECT APPLICANTS", with reference to the following facts and circumstances:

RECITALS

A. PROJECT APPLICANTS have applied to COUNTY for several separate development applications within the Moss Landing Community District. The COUNTY, through its Department of Public Works, additionally has a project within the Moss Landing Community District. The COUNTY desires to have one comprehensive, programmatic Environmental Impact Report (EIR) prepared that would evaluate the Community Plan Update at a general level and several development or improvement projects at a specific level. PROJECT APPLICANTS and COUNTY have agreed to prepare a Moss Landing Community Plan Update EIR, referred to herein as "THE PROJECT". THE PROJECT seeks all necessary COUNTY permits, approvals, and environmental review.

B. Due to the magnitude and complexity of THE PROJECT, the Director of the Monterey County Planning Department, hereinafter, "DIRECTOR", in conjunction with the Monterey County Department of Public Works, and PROJECT APPLICANTS 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 Exhibit "1", and incorporated herein by reference as if fully set forth. COUNTY shall manage THE PROJECT work performed by CONTRACTOR.

C. COUNTY and PROJECT APPLICANTS hereby agree that COUNTY shall engage CONTRACTOR to provide the services set forth in Exhibit "1" of this AGREEMENT.

D. A fundamental premise of this AGREEMENT is that nothing herein is to be construed as a representation, promise, or commitment on the part of COUNTY to give special treatment to, or exercise its discretion favorably for THE PROJECT, in exchange for PROJECT APPLICANTS' obligation to cover COUNTY'S cost of retaining CONTRACTOR and providing COUNTY staff to work on the EIR.

E. COUNTY and PROJECT APPLICANTS make this AGREEMENT with full knowledge of the requirements of state and local law, including, but not limited to the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et seq., hereinafter, "CEQA") and the State CEQA Guidelines (14 California Code of Regulations Section 15000 et seq., hereinafter, "Guidelines") and the Monterey County Code.

F. COUNTY and PROJECT APPLICANTS acknowledge that the initial cost for CONTRACTOR'S Base and Contingency budgets as set forth in Exhibit 1 of this AGREEMENT equal \$300,000.00. PROJECT APPLICANTS are responsible for an amount not to exceed \$285,000.00 of the costs outlined in Exhibit 1 of this AGREEMENT.

G. COUNTY and PROJECT APPLICANTS acknowledge that the initial cost estimate for Staff services equal \$104,140.00. PROJECT APPLICANTS are responsible for \$49,466.50 of the initial estimated cost for Staff services.

H. COUNTY and PROJECT APPLICANTS acknowledge that the County of Monterey Resource Management Agency – Department of Public Works will be funding a portion of the CONTRACTOR'S Base and Contingency budgets and a cost for Staff services as set forth in Exhibit 2 of this AGREEMENT.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, PROJECT APPLICANTS AND COUNTY AGREE AS FOLLOWS:

1. **Maximum Budget for THE PROJECT.** The maximum amount assessed for THE PROJECT is \$404,140.00:

CONTRACTOR'S Base Budget:	\$254,986.00
COUNTY Deposit (based on time and materials):	\$ 53,140.00
COUNTY Deposit (based on percentage of CONTRACTOR'S Base Budget and Project Contingency):	\$ 51,000.00
Project Contingency:	\$ 45,014.00
<u>Maximum Budget Under AGREEMENT:</u>	<u>\$404,140.00</u>

2. **Maximum Charge Under AGREEMENT.** The maximum amount which may be charged to PROJECT APPLICANTS under this AGREEMENT is \$334,466.50:

CONTRACTOR'S Base Budget:	\$ 242,236.70
COUNTY Deposit (based on time and materials):	\$ 49,466.50
Project Contingency:	\$ 42,763.30
<u>Maximum Charge Under AGREEMENT:</u>	<u>\$ 334,466.50</u>

3. **CONTRACTOR – CONTRACTOR’S Base Budget.** COUNTY shall engage CONTRACTOR in accordance with the Professional Services Agreement between COUNTY and CONTRACTOR, attached hereto and incorporated by this reference as Exhibit “1”. CONTRACTOR shall be responsible only to COUNTY, and nothing in this AGREEMENT imposes any obligation on COUNTY or CONTRACTOR to PROJECT APPLICANTS other than to devote the time and attention to preparing an EIR for THE PROJECT and related work. COUNTY shall provide direction and guidance to CONTRACTOR. CONTRACTOR’S contact(s) with PROJECT APPLICANTS shall only be through COUNTY; and PROJECT APPLICANTS, its agents, employees, consultants, representatives or partners shall not contact CONTRACTOR directly in any manner unless at a public hearing, meeting, or workshop for THE PROJECT.

CONTRACTOR’S invoices shall be paid from funds deposited by PROJECT APPLICANTS, and shall be paid in accordance with the terms in Section 2, Invoice Detail, of Exhibit “A” of the Professional Services Agreement between COUNTY and CONTRACTOR, included herein as Exhibit “1”. Should AGREEMENT be terminated prior to May 31, 2011, 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.

CONTRACTOR’S Base Budget:	\$ 254,986.00
PROJECT APPLICANTS’ Portion of Base Budget:	\$ 242,236.70

4. **Project Contingency.** An additional amount will be added to CONTRACTOR’S Base Budget and shall be included in the Professional Services Agreement between COUNTY and CONTRACTOR to cover potential contingencies. This Project Contingency totals \$45,014.00. PROJECT APPLICANTS’ portion of Project Contingency totals \$42,763.30. Transfer of any Project Contingency funds into the Base Budget shall require the approval of both COUNTY and PROJECT APPLICANTS and is subject to the procedures in *Section 3, Transfer from Project Contingency Account*, specified in “Exhibit A”, *Scope of Services/Payment Provisions, for the Moss Landing Community Plan Update EIR*, of the Professional Services Agreement between COUNTY and CONTRACTOR, included in Exhibit “1”, and incorporated herein by reference.

Within five (5) working days of receipt of a request from COUNTY, PROJECT APPLICANTS shall approve or disapprove the Request for Transfer from Project Contingency. If PROJECT APPLICANTS take more than five (5) working days to respond to a Request for Transfer from Project Contingency, additional costs may accrue to CONTRACTOR, which may result in another Request for Transfer from Project Contingency.

Any unused portion of this Project Contingency is refundable.

Project Contingency:	\$ 45,014.00
PROJECT APPLICANTS’ portion of Project Contingency:	\$ 42,763.30

5. COUNTY Deposit for Staff Services. A maximum COUNTY Deposit amount assessed on a time and materials basis for COUNTY Staff services, in an amount not to exceed \$104,140.00, shall apply to this AGREEMENT. The PROJECT APPLICANTS' portion of the COUNTY Deposit shall be assessed on an hourly basis for COUNTY Staff time related to THE PROJECT and shall not exceed \$49,466.50. This deposit covers the EIR Consultant selection process, COUNTY project management and contract administration.

COUNTY Deposit (based on time and materials):	\$ 52,070.00
PROJECT APPLICANTS' portion for Staff Services:	\$ 49,466.50

Allocation:	Planning Department	\$25,000.00
	The Office of the County Counsel	\$ 1,570.00
	Environmental Health Department	\$10,500.00
	Department of Public Works	\$ 7,500.00
	Water Resources Agency	\$ 7,500.00

If either the Planning Department, The Office of the County Counsel, and/or the Department of Public Works expends the individual deposit amount as specifically designated, that Department/Office will receive reimbursement from remaining deposit amounts from the Environmental Health Department and/or Water Resources Agency.

COUNTY Deposit is non-refundable.

6. Funding Procedures for CONTRACTOR'S Base Budget, Project Contingency, and COUNTY Deposit.

- a. PROJECT APPLICANTS shall make a first deposit in the amount equal to \$137,630.30 of the maximum charge under the AGREEMENT to fund CONTRACTOR'S Base Budget. This first deposit shall be made with COUNTY Planning Department upon approval of this AGREEMENT by the Monterey County Board of Supervisors, currently scheduled for May 4, 2010.

First deposit shall be collected from PROJECT APPLICANTS as follows:

	Elkhorn Slough Foundation	\$ 0.00
	Hamlin Properties, LLC	\$ 1,931.65
	Monterey Bay Aquarium Research Institute	\$34,769.76
	Moss Landing Business Park	\$50,705.90
	Moss Landing Harbor District	\$ 5,794.96
	Quin Delta, LLC	\$21,731.10
	San Jose State University Research Foundation	\$18,833.62
	Dennis Keith Family, L.P. and/or Assignee	\$ 1,931.66
	Phil DiGirolamo	\$ 1,931.65

Moss Landing Commercial Park, LLC doc

Kerr Family Investment LLC

PROJECT APPLICANTS' deposit of \$137,630.30 with COUNTY shall be a condition precedent to COUNTY'S obligation under this AGREEMENT.

- b. PROJECT APPLICANTS shall make a second deposit in the amount equal to \$115,477.25 of the maximum charge under the AGREEMENT to fund CONTRACTOR'S Base Budget and COUNTY Deposit. This second deposit shall be made with COUNTY Planning Department prior to the issuance of the Draft EIR, currently scheduled for November 1, 2010.

Second deposit shall be collected from PROJECT APPLICANTS as follows:

Elkhorn Slough Foundation	\$ 0.00
Hamlin Properties, LLC	\$ 1,620.73
Monterey Bay Aquarium Research Institute	\$29,173.20
<i>Moss Landing Commercial Park, LLC dba</i> Moss Landing Business Park	\$42,544.25
Moss Landing Harbor District	\$ 4,862.20
Quin Delta, LLC	\$18,233.25
San Jose State University Research Foundation	\$15,802.15
Dennis Keith Family, L.P. and/or Assignee	\$ 1,620.73
Phil DiGirolamo	\$ 1,620.74

PROJECT APPLICANTS' deposit of \$115,477.25 with COUNTY shall be a condition precedent to COUNTY'S obligation under this AGREEMENT.

- c. PROJECT APPLICANTS shall make a third deposit in the amount equal to \$81,358.95 of the maximum charge under the AGREEMENT to fund CONTRACTOR'S Base Budget and Project Contingency. This third deposit shall be made with COUNTY Planning Department prior to the issuance of the Final EIR, currently scheduled for January 1, 2011.

Elkhorn Slough Foundation	\$ 2,020.70
Hamlin Properties, LLC	\$ 468.32
Monterey Bay Aquarium Research Institute	\$20,553.84
<i>Moss Landing Commercial Park, LLC dba</i> Moss Landing Business Park	\$29,974.35
Moss Landing Harbor District	\$ 3,425.64
Quin Delta, LLC	\$12,846.15
San Jose State University Research Foundation	\$11,133.33
Dennis Keith Family, L.P. and/or Assignee	\$ 468.31
Phil DiGirolamo	\$ 468.31

PROJECT APPLICANTS' deposit of \$81,358.95 with COUNTY shall be a condition precedent to COUNTY'S obligation under this AGREEMENT.

7. **Relationship to Other Charges.** PROJECT APPLICANTS and COUNTY agree that the expenditures associated with this AGREEMENT are in addition to the standard development application fees and/or hourly fees charged for condition compliance of THE PROJECT as an extraordinary development permit.

8. **No Promise or Representation.** PROJECT APPLICANTS and COUNTY agree that nothing in AGREEMENT is to be construed as a representation, promise, or commitment on the part of COUNTY to give special treatment to, or exercise its discretion favorably for THE PROJECT, it being understood that PROJECT APPLICANTS' funding obligation under AGREEMENT is undertaken without regard to COUNTY'S actions regarding THE PROJECT.

9. **Term.** AGREEMENT shall become effective May 4, 2010 and continue through May 31, 2011, unless terminated pursuant to Paragraph 10 or amended pursuant to Paragraph 14 of AGREEMENT.

10. **Termination.** AGREEMENT shall terminate on May 31, 2011, but may be terminated earlier by PROJECT APPLICANTS or COUNTY, by giving thirty (30) days' written notice to the other.

11. **Entire Agreement.** AGREEMENT and its attachments constitute the entire agreement between the PROJECT APPLICANTS and COUNTY respecting the matters set forth herein. COUNTY and PROJECT APPLICANTS each represent that neither has relied on any promise, inducement, representation, or other statement made in connection with AGREEMENT that is not expressly contained herein.

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

13. **Assignment.** Neither COUNTY nor PROJECT APPLICANTS shall have the right to assign its respective rights and obligations hereunder without the written consent of the other party. This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

14. **Amendment.** This AGREEMENT may be amended, modified or supplemented only in writing by both COUNTY and PROJECT APPLICANTS.

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

16. **Waiver.** The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this AGREEMENT shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in any other instance or a waiver of any other condition or breach of any other term.

17. **Governing Law.** AGREEMENT shall be construed, interpreted and applied in accordance with the laws of the State of California applicable to commercial contracts entered into and to be performed wholly in California.

18. **Construction.** The language in all parts of AGREEMENT shall be construed, in all cases, according to its fair meaning. The parties acknowledge that each party has reviewed AGREEMENT and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of AGREEMENT.

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

20. **Relationship of Parties.** The parties agree that this AGREEMENT establishes only a funding arrangement between the parties, and that the parties are not joint venturers or partners.

21. ~~**Indemnification.** PROJECT APPLICANTS agree to defend, indemnify and hold COUNTY harmless in any action brought by any third party in which the authority of the COUNTY to enter into AGREEMENT or the validity of AGREEMENT is challenged.~~ cll

22. **Counterparts.** This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same AGREEMENT.

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

TO COUNTY: Mike Novo, AICP
Director of Planning
County of Monterey Resource Management Agency
Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901

TO PROJECT
APPLICANTS: Elkhorn Slough Foundation
c/o Mark Silberstein
PO Box 267
Moss Landing, CA 95039;

Hamlin Properties, LLC
c/o Kim Solano
7902A Sandholdt Road
Moss Landing, CA 95039;

Monterey Bay Aquarium Research Institute
c/o Keith Raybould
7700 Sandholdt Road
Moss Landing, CA 95039;

Moss Landing Commercial Park, LLC dba → Moss Landing Business Park
c/o Nader Agha
449 Alvarado Street
Monterey, CA 93940;

Moss Landing Harbor District
c/o Linda McIntyre
7881 Sandholdt Road
Moss Landing, CA 95039;

Quin Delta, LLC
Mahoney & Associates Commercial
Gregg Drilling
c/o Chuck Drake
501 Abrego Street
Monterey, CA 93940;

San Jose State University Research Foundation
Moss Landing Marine Labs
c/o Kenneth Coale
8272 Moss Landing Road
Moss Landing, CA 95039;

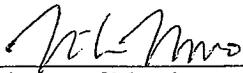
c/o ~~Dennis Keith Family, L.P. and/or Assignee~~ *Keith Family Investments III*
Keith Development Company
~~c/o Christian Keith~~
PO Box 33256
Los Gatos, CA 95031; and

Phil DiGirolamo
7600 Sandholdt Road
Moss Landing, CA 95039

Notice shall be deemed effective at the time of personal delivery or seventy-two (72) hours after mailing by certified mail, return receipt requested.

IN WITNESS WHEREOF, PROJECT APPLICANTS and COUNTY have executed AGREEMENT as of the day and year written below.

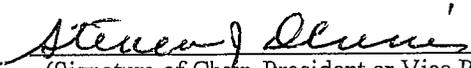
THE COUNTY OF MONTEREY

By: 
Director of Planning

Date: 2/9/11

PROJECT APPLICANT*

Elkhorn Slough Foundation

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

Its: STEVEN J. DENNIS Vice President
(Name and Title)

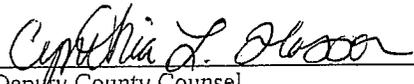
Date: July 28, 2010

By: 
(Signature of Secretary, Asst. Secretary, CFO or Assistant)

Its: STEVEN F GREEN Secretary
(Name and Title)

Date: Jul 20, 2010

Approved as to Form and Legality
Office of the County Counsel

By: 
Deputy County Counsel

Date: 12-29-10

*INSTRUCTIONS: IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT*

Hamlin Properties, LLC

By: Nathan A. Sawyer
(Signature of Chair, President or Vice President)

Its: Nathan A. Sawyer
Member
(Name and Title)

Date: 10/26/10

By: Kim Solano
(Signature of Secretary, Asst. Secretary, CFO or Assistant) Kim Solano

Its: 10/26/10
(Name and Title)

Date: Member

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THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT*

Monterey Bay Aquarium Research Institute

By: K. Raybould
(Signature of Chair, President or Vice President)

Its: KATH RAYBOULD, C.O.O.
(Name and Title)

Date: 6/8/10

By: C. Michael Pinto
(Signature of Secretary, Asst. Secretary, CFO or Assistant)

Its: C. MICHAEL PINTO, CFO
(Name and Title)

Date: June 8, 2010

*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.

THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT*

Moss Landing Commercial Park, LLC dba Moss Landing Business Park

By: _____
(Signature of Chair, President or Vice President)

Its: WALTER AGUIA GP
(Name and Title)
Managing Partner / Member

Date: September 5, 2010

By: _____
(Signature of Secretary, Asst. Secretary, CFO or Assistant)

Its: _____
(Name and Title)

Date: _____

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THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT*

Moss Landing Harbor District

By: *Russ Jeffries*
(Signature of Chair, President or Vice President)

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

Date: *7/12/2010*

By: *Linda G. McIntyre*
(Signature of Secretary, Asst. Secretary, CFO or Assistant)

Its: *Board/Deputy Secretary*
(Name and Title)

Date: *7/12/2010*

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THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT*

Quin Delta, LLC

By: _____
(Signature of Chair, President or Vice President)

Its: JOHN GREGG, MANAGER
(Name and Title)

Date: 8/18/2010

By: _____
(Signature of Secretary, Asst. Secretary, CFO or Assistant)

Its: JOHN GREGG, MANAGER
(Name and Title)

Date: 8/18/2010

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THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT*

San Jose State University Research Foundation

By: Don W. Kassing
(Signature of Chair, President or Vice President)

Its: Don Kassing
President and Board Chair SJSURF

(Name and Title)

Date: 12/14/2010

By: Mary Sidney
(Signature of Secretary, Asst. Secretary, CFO or Assistant)

Its: Mary Sidney
COO and Secretary of the Board SJSURF

(Name and Title)

Date: 12.14.10

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THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT* Investments, LLC.
~~Dennis~~ Keith Family, L.P. and/or assignee

By: [Signature]
(Signature of Chair, President or Vice President)

Its: Managing Partner, Chris Keith
(Name and Title)

Date: 6/04/10.

By: [Signature]
(Signature of Secretary, Asst. Secretary, CFO or Assistant)

Its: Managing Partner, Chris Keith
(Name and Title)

Date: 6/04/10.

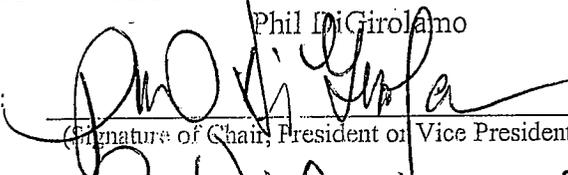
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THE COUNTY OF MONTEREY

By: _____
Director of Planning

Date: _____

PROJECT APPLICANT*

Phil DiGirolamo
By:  _____
(Signature of Chair, President or Vice President)

Its:  _____
(Name and Title)

Date:  _____

By: _____
(Signature of Secretary, Asst. Secretary, CFO or Assistant)

Its: _____
(Name and Title)

Date: _____

*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.

EXHIBIT 1

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
EMC PLANNING GROUP, INC.
AND THE COUNTY OF MONTEREY
FOR THE
MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

Before the Board of Supervisors in and for the
County of Monterey, State of California

Agreement No.: A-11914

- a. Approve a Professional Services Agreement with EMC Planning Group, Inc. (EMC) where the Base Budget is \$254,986 with a Contingency of \$45,014, for a total amount not to exceed \$300,000, to provide the Moss Landing Community Plan Update Environmental Impact Report (EIR) (PD080541) in Moss Landing, for a term through May 31, 2011; and)
- b. Approve a Funding Agreement with various Project Applicants where the Project Applicants' portion of the Base Budget is \$242,237 with a Contingency of \$42,763 and Deposits for County Staff services are \$49,467, for a total amount not to exceed \$334,467, to allow funding to Monterey County for costs incurred by EMC and County departments to provide the Moss Landing Community Plan Update EIR (PD080541) in Moss Landing, for a term through May 31, 2011; and)
- c. Authorize the Director of Planning to execute the Professional Services Agreement, Funding Agreement and future amendments to these Agreements that do not significantly alter the scope of work or change the approved Agreement amounts.)
(PD060200/EMC Planning Group, Inc.))

Upon motion of Supervisor Armenta, seconded by Supervisor Potter, and carried by those members present, the Board of Supervisors hereby:

- a. Approved a Professional Services Agreement with EMC Planning Group, Inc. (EMC) (A-11914) where the Base Budget is \$254,986 with a Contingency of \$45,014, for a total amount not to exceed \$300,000, to provide the Moss Landing Community Plan Update Environmental Impact Report (EIR) (PD080541) in Moss Landing, for a term through May 31, 2011; and

- b. Approved a Funding Agreement with various Project Applicants where the Project Applicants' portion of the Base Budget is \$242,237 with a Contingency of \$42,763 and Deposits for County Staff services are \$49,467, for a total amount not to exceed \$334,467, to allow funding to Monterey County for costs incurred by EMC and County departments to provide the Moss Landing Community Plan Update EIR (PD080541) in Moss Landing, for a term through May 31, 2011; and
- c. Authorized the Director of Planning to execute the Professional Services Agreement, Funding Agreement and future amendments to these Agreements that do not significantly alter the scope of work or change the approved Agreement amounts.

PASSED AND ADOPTED this 11th day of January 2011, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, 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 75 for the meeting on January 11, 2011.

Dated: January 21, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Danise Hancock
Deputy

COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES
(MORE THAN \$100,000)*

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:
EMC Planning Group, Inc.
(hereinafter "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 the Moss Landing Community Plan Update Environmental Impact Report

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 \$ 300,000.00.

3. **TERM OF AGREEMENT.** The term of this Agreement is from May 4, 2010 to May 31, 2011, 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.

*Approved by County Board of Supervisors on _____.

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 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 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 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.** CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

9.0 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 Department, 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 coverage's, 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, Broadform 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.

Exemption/Modification (Justification attached; subject to approval).

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 \$1,000,000 per occurrence.

Exemption/Modification (Justification attached; subject to 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.

Exemption/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 years following the expiration or earlier termination of this Agreement.

Exemption/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 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.

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 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 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 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 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 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 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, 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. **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.
14. **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:
Dalia Mariscal-Martinez, Management Analyst II	Teri Wissler Adam, Principal
Name and Title	Name and Title
County of Monterey Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901	EMC Planning Group, Inc. 301 Lighthouse Avenue, Suite C Monterey, CA 93940
Address	Address
(831) 755-8966	(831) 649-1799
Phone	Phone

15. MISCELLANEOUS PROVISIONS.

- 15.01 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.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 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.
- 15.04 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.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 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.
- 15.07 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.
- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 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.

- 15.13 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.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 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.
- 15.16 Integration. This Agreement, including the exhibits, represent 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.
- 15.17 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.

This space left blank intentionally

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

COUNTY OF MONTEREY

CONTRACTOR

By: _____
Purchasing Manager

Date: _____

By: *[Signature]*
Department Head (if applicable)

Date: 2/9/11

By: _____
Board of Supervisors (if applicable)

Date: _____

Approved as to Form¹

By: *Cynthia A. Swanson*
County Counsel

Date: 6-1-10

Approved as to Fiscal Provisions²

By: *[Signature]*
Auditor/Controller

Date: 6-3-10

Approved as to Liability Provisions³

By: _____
Risk Management

Date: _____

EMC Planning Group, Inc.
Contractor's Business Name*

By: *[Signature]*
(Signature of Chair, President, or Vice-President)*

MICHAEL GROVES, AICP, PRESIDENT
Name and Title

Date: MAY 25, 2010

By: *Teri Wissler Adam*
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

TERI WISSLER ADAM, SECRETARY
Name and Title

Date: MAY 25, 2010

County Board of Supervisors' Agreement Number: _____.

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the 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.

¹Approval by County Counsel is required

²Approval by Auditor-Controller is required

³Approval by Risk Management is necessary only if changes are made in paragraph 8 or 9

1.0

PROJECT UNDERSTANDING

The County of Monterey is in the process of preparing an update to the Moss Landing Community Plan, which is a component of the North County Land Use Plan, Local Coastal Program. In addition, the County is processing several development applications within the planning area. The County desires to have one comprehensive, programmatic EIR prepared that would evaluate the Community Plan Update at a general level and several development or improvement projects at a specific level. The purpose of a programmatic EIR and various facets of the overall proposed project are discussed below.

1.1 PROGRAM EIR

CEQA Guidelines section 15168 states that a program EIR is an EIR that may be prepared on a series of actions that can be characterized as one large project and are related either 1) geographically, 2) logical parts in the chain of contemplated actions, 3) in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or 4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects that can be mitigated in similar ways.

The advantages of a program EIR can 1) provide for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action, 2) ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis, 3) avoid duplicative reconsideration of basic policy considerations, 4) allow the lead agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and 5) allow reduction in paperwork.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

1.2 MOSS LANDING COMMUNITY PLAN UPDATE

The Moss Landing Community Plan Update will be prepared by County staff. To assist with this effort, the County has retained Applied Development Economics (ADE) to conduct an economic development study. According to the RFP, the focus of the update will be to remove and replace out of date references, address policies that were applicable in the past but require revisions in response to changed circumstances, update the manner in which the Community Plan treats utility infrastructure including the need to address water availability, updating the sewer allocation system to accommodate existing and proposed development and allow for future development on land that has been granted land use, address Highway 1 circulation needs, address Periodic Review comments made by the California Coastal Commission, and update the design guidelines for the Community Plan. As enumerated in the RFP, specific modifications include the following: changes to the Land Use Map in four locations; revisions to land use designations in three locations; updating the design guidelines that are sensitive to the existing character of the community (all for expanded styles of historic architecture); revisions to the infrastructure plans associated with sewer, water, pedestrian and bicycle circulation, traffic, street lights, and wireless communications; and expand the Urban Services Boundary to include the Moss Landing Business Park, the Moss Landing Power Plant, and Moss Landing Switch Yard.

In addition to the specific development/improvement projects discussed in the next section, the following levels of development were considered in the Community Plan Update committee meetings:

- North Harbor
 - 130 motel rooms
 - 100-seat restaurant
 - Retail buildings (10,000 square feet)
- The Island
 - Commercial buildings (20,000 square feet)
- The Downtown
 - 20 residential units
 - 150-seat restaurant
 - Commercial buildings (10,000 square feet)
 - 30-unit motel

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- Moss Landing Harbor District
 - a. Island Property at 7881 Sanholdt Road – Redesign of tenant space within building.
 - b. North Harbor Property
 - 1. Boat wash facility – waiting for resolution of waste water solution.
 - 2. 30 unit hotel identified in Moss Landing Community Plan.
 - 3. Pisto Restaurant (DA070532) – Construction of 6,000 square foot restaurant.

- Moss Landing Downtown Merchants

Planning within the downtown area would include diversification of land uses, and may include, but not be limited to the following:

- a. 20 residential units;
 - b. 150-seat restaurant;
 - c. 10,000-square feet of commercial space;
 - d. 30-unit motel;
 - e. bed and breakfast opportunities; and
 - f. other downtown uses to be determined.
- Moss Landing Green Business Park

This property is the old National Refractories site, which is located east of SR 1. It currently consists of approximately 295,687 square feet of existing, enclosed buildings and the County approved the development of a new 70,060 square foot warehouse in July 2008. This approval is currently on appeal at the Coastal Commission. The Community Plan Update is anticipated to include up to 400,000 square feet in additional buildings; however, this number has yet to be finalized for the draft Community Plan Update. Approved and anticipated uses include Coastal Dependent and Coastal Related Heavy Industrial Uses.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

1.3 DEVELOPMENT/IMPROVEMENT PROJECTS

In addition to evaluating the environmental impacts of buildout of the Community Plan Update at a general level, the EIR would evaluate the following projects to a degree of specificity involved with the underlying activity. At the time of preparation of this proposal, no details beyond the information presented below about individual development projects were available. Although the team has attempted to identify the environmental issues that may be associated with these projects, any additional project details not included herein, may require revisions to the scope of work.

1. Monterey Bay Aquarium Research Institute Master Plan

Short Term

- a. 7700 Sanholdt Road. 57,000-square foot research facility to provide laboratory space for several research center spaces, and removal of a finger pier to allow better maneuvering of existing research vessel.
- b. 7600 Sanholdt Road. 34,000-square foot replacement of an existing building on parcel that currently houses Phil's Fish Market and MBARI facilities; this building will support research centers and activities associated with integration and testing of oceanographic equipment prior to deployment of research vessels.

Long Term (To begin in 2030)

- c. 7500 Sanholdt Road. 66,500-square foot building that would support science and engineering ocean dependent research activities.
- d. 7700 Sanholdt Road. 7,500-square foot dock house "k" with a 30-foot dock extension for marine operations staff and research vessel replacement.

2. Moss Landing Marine Laboratories

Short Term

- a. 7539 Sanholdt Road. 36,000 square feet (warehouse, offices, shops, and off loading facilities) and 15,000 square feet of dock/wharf area. (20 Occupants)

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Long Term

- b. 7544 Sanholdt Road. 2,600 square feet of mixed use (office and warehouse facilities) (6 Occupants)
 - c. 7722 Sanholdt Road. 7,400-square foot research building, 8,520-square foot concrete slab for aquaculture, and 300-foot pier. (8-10 Occupants)
 - d. Sanholdt Center. Adjacent to main campus, 30,000-square foot residential housing, office and conference facility. (70 Occupants)
- 3. Gregg Drilling (Assessor's Parcel Numbers 133-251-004, 005, 006 008, 009)**
- a. 8,000- to 9,000-square foot building, 25 employees.
 - b. High tech operations will take place in the building (remote drilling, data collecting) and other fabrication.
 - c. Moss Landing would be the home port of the Quinn Delta.
 - d. Gravel's boat yard, custom covers and Woodward Marine will remain on site.
 - e. Installation of new bulkhead along shore, new dock and dredging of portion of the harbor.

4. Storm Drain Master Plan

The County proposes to install storm drain facilities along Sanholdt Road and Moss Landing Road. Drainage will be collected and released into the Harbor and across the Elkhorn Slough Foundation property into the Moro Cojo Slough.

2.0

**ENVIRONMENTAL ISSUES AND
ANALYSIS METHODOLOGY**

The EIR would focus on the following environmental issues. Methodologies for addressing the environmental issues are discussed.

2.1 AESTHETICS

The community of Moss Landing is located within a unique coastal setting. The impacts associated with buildout of the Community Plan update will be generally analyzed and the detailed specific development projects will be analyzed in more detail. Determination of significance of impacts will be based upon Monterey County and Coastal Act policies.

2.2 AGRICULTURAL RESOURCES

The EIR will consider the potential impacts to existing farmland to the south at the existing agricultural/residential interface along the southern boundary of the plan area along Potrero Road as well east of the plan area behind the power plant and industrial park.

2.3 AIR QUALITY AND CLIMATE CHANGE

Air Quality

EMC Planning Group Inc. will prepare an air quality analysis that looks at buildout of the Community Plan Update at a programmatic level and each of the defined development projects at a project level. Each “project” will be evaluated consistent with the Monterey Bay Unified Air Pollution Control District CEQA Guidelines for demolition, construction, and operations.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Climate Change

A project's contribution to climate change is now addressed in the CEQA process. A greenhouse gas emissions analysis will be conducted using the methodology recommended by the State Office of Planning & Research.

EMC will conduct the following tasks to analyze the project's contribution to climate change.

1. Present existing policy and regulatory setting (Title 24 Standards/Energy Conservation, AB 1493, Executive Order S-3-05, AB 32, SB 97, proposed CEQA Guidelines revisions, Executive Order S-01-0-7, SB 375) and any efforts under way by the Monterey Bay Unified Air Pollution Control District to address the issue District-wide, and by the County of Monterey to address the issue at a county-wide level.
2. Discuss thresholds of significance or lack thereof.
3. Discuss the science and effects of global warming and the inventories of greenhouse gas emissions.
4. Quantify, to the extent feasible, the project's greenhouse gas emissions.
5. Identify impacts and recommend mitigation measures.

These reports would be included as appendices to the EIR.

2.4 BIOLOGICAL RESOURCES

The Moss Landing area is located within a unique environment, incorporating the Pacific Ocean, a harbor, sand dunes, and the mouth of Elkhorn Slough. The harbor serves as the gateway to the Elkhorn Slough National Estuarine Research Reserve, California's second largest marine wetland. This expansive tidal wetland is an important habitat for terrestrial and marine species, including sea otters, harbor seals, and over 250 resident and migratory bird species. Dune and wetland habitats also provide habitat for a number of rare plants.

For purposes of this EIR, terrestrial and marine resources will be included under the umbrella of the Biological Resources section. Tasks associated with both analyzing both types of resources are included below.

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Terrestrial Biological Resources

A review of the California Natural Diversity Database (California Department of Fish and Game 2009) found the following special status plant species identified within the vicinity of Moss Landing that may occur within the plan boundary:

- Coast wallflower , (*Erysimum ammophilum*), CNPS list 1B.2 species
- Congdon's tarplant, (*Centromadia parryi* spp. *congdonii*), CNPS list 1B.2 species
- Monterey spineflower, (*Chorizanthe pungens* var. *pungens*), federally threatened, CNPS list 1B.2 species
- Pajaro manzanita , (*Arctostaphylos pajaroensis*), CNPS list 1B.1 species
- Robust spineflower, (*Chorizanthe robusta* var. *robusta*), federally endangered, CNPS list 1B.1 species
- Saline clover, (*Trifolium depauperatum* var. *hydrophilum*), CNPS list 1B.2 species
- Sand gilia, (*Gilia tenuiflora* ssp. *Arenaria*), federally endangered, state threatedened, CNPS list 1B.2 species
- Seaside bird's beak, (*Cordylanthus rigidus* ssp. *littoralis*), state endangered, CNPS list 1B.1 species
- Protected Vegetation Communities: Central Dune Scrub, Coastal and Valley Freshwater Marsh, Coastal Brackish Marsh, and Northern Coastal Salt Marsh

In addition, the following wildlife species have been recorded in the project vicinity and may also occur within the plan area

- Bank swallow, (*Riparia riparia*), state threatedened
- Black legless lizard, (*Anniella pulchra nigra*), state species of concern
- Burrowing Owl, (*Athene cunicularia*), state species of concern
- California brackishwater snail (mimic tryonia), (*Tryonia imitator*), state species of concern
- California clapper rail, (*Rallus longirostris obsoletus*), federally endangered, state endangered
- California red-legged frog, (*Rana aurora draytonii*), federally threatened, state species of concern

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- California tiger salamander, (*Ambystoma californiense*), federally threatened, state species of concern, candidate for higher state listing
- Globose dune beetle, (*Coelus globosus*), protected
- Monarch butterfly, (*Danaus plexippus*), protected
- Salinas harvest mouse, (*Reithrodontomys megalotis distichlis*), protected
- Santa Cruz long-toed salamander, (*Ambystoma macrodactylum croceum*), federally endangered, state endangered, fully protected species
- Short-eared owl, (*Asio flammeus*), state species of concern
- Southern sea otter, (*Enhydra lutris nereis*), federally threatened, state fully protected species
- Tidewater goby, (*Eucyclogobius newberryi*), federally endangered, state species of concern
- Western pond turtle, (*Actinemys marmorata*), state species of concern
- Western snowy plover, (*Charadrius alexandrinus nivosus*), federally threatened, state species of concern

The following tasks will be implemented to address biological resources within the plan area:

1. Compile and review all available project information, including topographic maps, plan maps indicating the areas of potential effect (i.e., vegetation removal, building envelopes, etc.), and project descriptions. Conduct peer review of the Biological Survey prepared by Rana Creek Habitat Restoration dated October 10, 2008 and the Biotic Assessment by Assegued & Associates.
2. Conduct a background data search to determine biological resources known to occur in the vicinity of the plan area. These data will be obtained from the Inventory of Rare and Endangered Vascular Plants of California (California Native Plant Society, 2001), the California Department of Fish and Game (CDFG) Natural Diversity Data Base (CNDDDB), lists from CDFG and U. S. Fish and Wildlife Service, and biological inventories conducted on adjacent properties, if available.
3. Conduct a reconnaissance-level field survey of the plan area and with a focus on the three project areas in order to (1) identify and map the principal plant communities, (2) assess the potential for special-status species and their habitats, wildlife movement corridors, potential jurisdictional wetlands, protected trees, and other significant biological resources to occur in the project area, and (3) identify and map any observed locations of special-status species and/or sensitive habitats occurring in the project area.

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4. Prepare biological resources section of the EIR analyzing the Community Plan as a whole as well as each of the three specific projects. This section will include a description of existing habitats and plant and animal species found and the occurrence of and/or potential for special-status species and their habitats. Maps will be prepared illustrating habitat types and the location(s) of special-status species occurring in each of the three project areas, if necessary. Potential impacts to biological resources will be identified, and mitigation measures will be provided to minimize potential impacts to the extent possible.

Note: Focused or protocol-level surveys for animal species are not included in this proposed scope of work. The presence or absence of certain species can be determined during the reconnaissance-level site assessment. If appropriate habitat for special status species is observed during the site assessment, species-specific surveys may be required (i.e., surveys for annual plants not in bloom at the time of the reconnaissance-level survey, protocol-level surveys for special-status wildlife species, etc.).

Marine Biological Resources

In addition to potential impacts to terrestrial biological resources, impacts to marine resources may also occur. Projects requiring disturbance to ocean environments (such as pier construction or removal) may impact marine mammals, fish, and benthic communities. Marine mammals are protected under the Marine Mammal Protection Act, and fish and benthic flora and fauna are protected by the Magnuson-Stevens Act and the Endangered Species Act. EMC Planning Group Inc. proposes to team with Applied Marine Sciences to address marine issues. Their scope of work is as follows:

1. Collection of Applicable Literature

The first step in producing the EIR for the update of the MLCP will be to collect applicable documents, reports and other literature for marine biological resources and water quality in the Moss Landing area. AMS has an extensive library of documents, including the Proponents Environmental Assessment for the proposed desalination facility at the Moss Landing Power Plant and other literature gathered by AMS for the Coastal Water Project EIR.

AMS also will obtain the following project documents:

- Biological Survey prepared by Rana Creek Habitat Restoration dated October 10, 2008;
- Essential Fish Habitat Report for the North Harbor Redevelopment Project by Terrestrial & Aquatic Biological Resources;

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- Survey of North Harbor Eelgrass Beds by ABA Consultants;
- Marine Habitats and Bathymetry Around Skippers Restaurant & North Harbor Visitor Serving Area by ABA Consultants; and
- Biotic Assessment by Assegued & Associates.

All this material will be reviewed for applicability to the project and to help determine whether additional information might be needed to adequately describe existing conditions and determine impacts and mitigations for the development activities included in the MLCP update.

2. Describe Existing Conditions, Marine Biological Resources

Occurring near the mouth of an estuary with extensive wetlands and agricultural drainages, the Moss Landing area supports diverse marine biological resources. These include will be thoroughly described including the following:

- Regional setting;
- Regulatory setting;
- Habitats in the area with associated benthic and planktonic invertebrates, algae, fishes, birds and mammals;
- Sensitive habitats, such as eelgrass beds and essential fish habitat; and
- Special status species, such as green sturgeon, Chinook and Coho salmon, southern sea otter and other marine mammals.

Emphasis will be placed on sensitive habitats and foraging or resting areas for marine mammals and special status species. Tabular information will be provided including lists of species by major group, with their likelihood of occurring in the project area and season of occurrence.

3. Analysis of Potential Impacts

Impacts associated with implementation of the MLCP update could result from construction and operation of new or revised developments. Construction impacts could include the following:

- Physical disturbances or loss of habitats and associated temporary or permanent loss of biota;
- Disturbances of wildlife associated with construction activities, noise and light;

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- Reduced water quality or degraded habitats associated with resuspension of contaminated sediments or runoff from land of spilled fuel, construction materials, or sediments.
- Operational impacts could include the following:
- Disturbances of wildlife associated with elimination of habitat or increased activities, noise and light;
- Reduced water quality due to increased storm runoff associated with possible increases in impervious area.

All impacts will be characterized by their duration, significance and potential for mitigation. Short-term impacts will typically be associated with construction activities. Long-term impacts will be associated with permanent operational activities. The significance of impacts will be determined by comparing them with applicable regulatory standards and criteria, including:

- The California Ocean Plan,
- National Marine Fisheries Service criteria for disturbance or “take” of marine mammals,
- The likelihood for increasing contaminant concentrations in prey items of special status species,
- The comparison between the amount of habitat affected by the proposed implementation of the updated MLCP and the total amount of that habitat in the area, and
- The availability of suitable measures for mitigation.

4. Mitigation Strategy

Mitigation measures will be developed wherever possible to reduce impacts to less than significant. Potential mitigations could include the following:

- Restriction of some construction activities to certain hours of the day or months of the year;
- Use of construction methods or practices to reduce disturbances, resuspension of sediments and runoff, such as use of wattle, detention basins, boom skirts, etc.;
- Implementation of design practices, such as Low Impact Development, to reduce storm runoff from impervious surfaces;

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- Remediation of disturbed habitat; and
- Construction of eliminated habitat elsewhere.

This report would be included as an appendix to the EIR.

2.5 CULTURAL RESOURCES

Archaeological Consulting will prepare a Cultural Resources Evaluation Report, which will consist of the following scope of work:

1. Request a background search of the records at the Northwest Regional Information Center at Sonoma State University to determine the locations of previously recorded archaeological sites and historical resources within the project area and in the immediate vicinity, as well as to obtain a complete bibliography of all reports completed to date in Moss Landing, Monterey County, California. We will also complete local research at historical societies and county agencies. We will review the previous project reports, site records and updates, and local research data and will include all pertinent findings in the Cultural Resources Evaluation Report for the current project.
2. Request a Sacred Lands File Search through the Native American Heritage Commission and will conduct consultation with Native American individuals and/or groups and other interested parties as directed by the Commission.
3. Undertake site visits to those specific project areas with currently proposed short and long range plans/projects which have not yet been subject to archaeological study. We will also make site visits, where necessary, to confirm the findings of existing cultural resources reports in order to determine the overall cultural resources sensitivity of the area.
4. Complete a Cultural Resources Evaluation Report which will contain findings and recommendations, including testing and/or mitigation measures, as appropriate, for the Moss Landing Community Plan project area.

This report would not be included as an appendix to the EIR, but would be submitted to the County staff under separate cover.

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2.6 GEOLOGY AND SOILS

This section of the EIR will address the general nature of the Community geology and soil. Issues to be addressed include the following: faulting and seismic shaking, liquefaction, landslides, erosion, and soil capabilities. The issues will be addressed in a general nature unless site specific investigation has been conducted on development sites and those reports are available for our use.

2.7 HAZARDS AND HAZARDOUS MATERIALS

This section of the EIR will be completed based upon existing information available from public sources and from the applicants of specific development projects. A significant amount of work was accomplished for projects in the vicinity, some of which is available in EMC's library.

2.8 SURFACE WATER HYDROLOGY AND WATER QUALITY

EMC Planning Group Inc. will prepare a surface water hydrology and water quality section of the EIR that looks at buildout of the Community Plan Update at a programmatic level and each of the defined development projects at a project level. Where it applies to marine resources, coordination on the section will occur with Applied Marine Resources as described below. We will identify proposed mitigation measures as appropriate. Water demand and supply will be addressed in the utilities section of the EIR.

Marine water quality in the project area is influenced by complex interactions among oceanographic, tidal, meteorological and land use processes. In particular, a description of marine water quality in the project area will require consideration of the following:

- The Monterey Submarine Canyon comes within 2.25 miles of shore;
- The Salinas and Pajaro rivers, as well as agricultural drainages surrounding Elkhorn Slough discharge into the area;
- There is regular tidal exchange between Moss Landing Harbor/Elkhorn Slough and Monterey Bay;
- Historic land uses around Moss Landing Harbor have contributed to high concentrations of contaminants in the sediments.

All these factors help create seasonally varying water quality in Moss Landing Harbor and Elkhorn Slough that contribute to existing conditions.

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2.9 LAND USE AND PLANNING

This section of the EIR will address the proposed project's consistency with the North County Land Use Plan (the focus of the consistency analysis), the County General Plan, Title 20, the Coastal Act, the Clean Air Plan, and the Regional Transportation Plan. EMC Planning Group Inc. will incorporate a consistency matrix prepared by County staff discussing consistency with relevant policies of the North County Land Use Plan, if available.

2.10 NOISE

The level of development envisioned for the Community Plan Update would result in noise-related construction and operational activities. Brown-Buntin Associates will conduct a noise analysis and prepare a technical report for the EIR. The scope of work follows:

1. Document existing ambient noise levels within the plan area by conducting 24-hour noise measurements at up to four (4) representative locations within the plan area. Identify major sources of community noise within the plan area and develop generalized noise exposure information for those sources for existing conditions. Known sources of noise in the area include State Highway 1, commercial/industrial uses, and the existing power plant.
2. Develop future noise exposure information for potential new transportation and stationary noise sources in the community plan area, including the prospective projects identified in the RFP. This task will also include consideration of potential short-term noise impacts related to construction of roadways and other infrastructure improvements in the plan area. Future traffic noise in the community plan area will be quantified based upon the FHWA Traffic Noise Model and traffic data to be provided by other members of the project team.
3. Compare project-related noise levels and expected long-term changes in the ambient noise environment within the plan area to applicable Monterey County noise compatibility criteria and the CEQA Guidelines. Prepare generalized recommendations for noise mitigation as may be required.
4. Prepare a report describing the methods, data, findings and recommendations for noise mitigation of the study.

This report would be included as appendix to the EIR.

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2.11 POPULATION AND HOUSING

This section of the EIR will evaluate whether or not the Community Plan Update and development projects would induce population growth in the area, displace existing housing, or displace people, thereby necessitating the construction of housing elsewhere.

2.12 PUBLIC SERVICES AND UTILITIES

Water

The key water supply issue is the long-term availability of supply to meet additional demand in Moss Landing. Pajaro Sunny Mesa Community Services District (PSMCS D or CSD) is the major provider of water supply to Moss Landing, having recently assumed responsibility for water supply from the Alisal Water Company. PSMCS D also serves multiple communities in northern Monterey County, including Pajaro and Sunny Mesa within the Pajaro Valley Water Management Agency (PVWMA).

The Moss Landing water system uses local groundwater from the lower Salinas Valley groundwater basin. This basin has been in overdraft with significant seawater intrusion of the 180-foot and 400-foot aquifers; Moss Landing is situated on the northern margin of the 500-mg/L chloride area mapped by Monterey County Water Resources Agency (MCWRA) as indicating seawater intrusion. Seawater intrusion (indicated by 100 mg/L chloride concentrations) also has been mapped to the north of Elkhorn Slough by PVWMA. As described by Monterey County LAFCO, local groundwater also is affected by nitrate contamination.

A portion of the Moss Landing Community Plan (MLCP) area extends north of Elkhorn Slough into PVWMA, although this area is not within the existing or proposed Urban Services Boundary. According to the LAFCO Municipal Services Review, the Moss Landing water system is located beyond the jurisdictional area of the PVWMA and export of water from the PVWMA to Moss Landing is prohibited by PVWMA ordinances. PSMCS D has been exploring additional water supplies, including a regional desalination plant in Moss Landing.

With regard to the proposed MLCP, the Moss Landing Community Plan Update Committee expressed concern over the sufficiency and capacity of water supply facilities to provide existing and proposed needs and the long-term sustainability of water sources. PSMCS D has indicated that water supply is sufficient for existing connections and planned development, but not for additional growth. The CSD also indicated additional needed facilities including a water pipeline, storage tank, and other improvements. Committee recommendations include possible phasing of new development, encouragement of water demand management, and pursuit of

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additional water sources (e.g., desalination) to provide long-term supply while minimizing seawater intrusion.

The issue of long-term water supply sustainability will be addressed with a Water Supply Assessment (WSA) prepared in accordance with California Water Code section 10910 (also termed Senate Bill 610 or SB 610). This statute requires detailed assessment of water supply availability prior to the approval of large projects. In order to ensure compliance, our approach will follow the Department of Water Resources (DWR) Guidebook for Implementation of Senate Bills 610 and 221 and provide step-by-step documentation of water supply and demand.

The existing Moss Landing water supply is groundwater; if any planned additional demand as part of the MLCP is satisfied with groundwater, then the California Water Code section 10910, subdivision (f) requires analysis of the sufficiency of the groundwater basin to meet the projected water demand associated with the proposed project. This includes documentation of the groundwater basin, as defined by the DWR and modified by recent court decisions such as *OWL Foundation v. City of Rohnert Park*. Documentation also is required of the condition of overdraft and efforts being undertaken to eliminate the overdraft. The water code also requires detailed description of the amount and location of existing and future groundwater pumping (based on readily available information).

Our proposed scope of work includes documentation of local groundwater resources. We recognize that PSMCSD has not proposed to provide groundwater to satisfy additional growth beyond what already is planned. However, groundwater could potentially be used, barring strict regulation of private well pumping.

If the water supply and demand analysis indicates that water supply is insufficient, we will summarize PSMCSD plans for acquiring additional water supply. As described in the 2006 LAFCO Municipal Services Review, PSMCSD secured a 98-year lease for a 20 acre site including existing seawater intake and outfall pipes, and entered into a development agreement with Poseidon Resources Corporation to pursue permits and other approvals for the project. The CSD also was reported to be seeking other agencies interested in partnering in this project. The WSA will document current efforts to obtain additional supplies. To fulfill SB 610 requirements, the summarized plans will include an estimate of costs, identification of required permits, and a timeframe to develop the water supplies.

If the water supply is deemed insufficient, the County may still approve the project but it must include that determination, based on the entire record, in the findings for the project. It must include substantial evidence in the record to support its approval of the project.

Todd Engineers will address groundwater issues and prepare the WSA. Their scope of work is as follows:

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1. Kick-off Meeting, Data Acquisition and Review. Todd Engineers will attend the project kick-off meeting and acquire and review relevant existing information regarding water supply and demand for the project. The WSA will focus on the MLCP area, with appropriate reference to the lower Salinas Valley groundwater basin. We understand that no Urban Water Management Plan—a foundational document for a Water Supply Assessment—is available from PSMCSD, reflecting its limited number of connections.

The data acquisition task will begin with review of the water-related sections of the Moss Landing Economic Development Strategy, prepared by Applied Development Economics, which will provide important background information on water supply and demand. In addition, we will utilize information from our own extensive files, including hydrogeologic reports and existing water supply studies. As needed, we will contact the CSD and the Monterey County Department of Health, Environmental Health Division (EHD) to acquire available information on the Moss Landing water system, including recent and historical water supply and water demand data. We will also contact the CSD, EHD and MCWRA to obtain information on local wells and pumping. Existing MCWRA documents will be used to document local groundwater overdraft and seawater intrusion conditions and the effectiveness of the Salinas Valley Water Project in limiting seawater intrusion. We will also gather relevant information on the proposed Coastal Water Project in terms of future regional water supplies and potential cumulative impacts of any proposed groundwater development.

We anticipate provision of specific population and water demand data for the proposed phased alternatives for the next 20 years. If the data are not provided in five-year increments suitable for a WSA, we will provide the necessary estimates (e.g., interpolations) using available information. For this scope, it is assumed that data will be provided electronically in spreadsheets (Excel) and/or databases (GIS).

2. Water Supply and Demand Assessment. Evaluate water supply and demand for the project during normal and drought conditions in five-year increments with projections over the next 20 years. Water supply and demand will be compared to assess the sufficiency of water supply for the MLCP project in light of Moss Landing's total water supply and demand. If the supply is deemed insufficient, we will appropriately document PSMCSD plans for water supply augmentation.
 - 2a. Assess Water Demand. Water demands are required to be quantified by water use sectors in five-year increments, insofar as data are available. Recognizing that the MLCP involves no expansion of the plan boundary or definition of new land uses on undeveloped land, then the focus of this assessment will be on comparison of existing and planned future water demands in order to quantify any additional demand. The additional demand of the MLCP will be evaluated using information from the Moss

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Landing Economic Development Strategy. We anticipate receiving land use data for each phased alternative, such as number of hotel units, retail floor space, industrial uses, and irrigated park acreage, plus water use factors. Our assessment will include independent review of water demand estimates.

- 2b. Assess Water Supply. Groundwater is the existing source of supply; accordingly, we will provide the documentation of groundwater required by section 10910. The CSD currently has wells in the service area that provide water supply and historical groundwater use will be documented insofar as data are available, for example, from the Moss Landing Economic Development Strategy document. The assessment will provide a succinct evaluation of the groundwater supply in terms of quantity, quality, and sufficiency. This will involve using DWR and MCWRA documents to describe the groundwater basin, local groundwater management, and condition of the basin in terms of overdraft. This section will include an assessment of the sufficiency of groundwater as a possible source of supply for the project. A summary table will document existing and planned water supplies for the Moss Landing service area of PSMCSD in 5-year increments over a 20-year projection.
- 2c. Evaluate Drought Supply and Demand. This evaluation will address water supply not only for normal years, but also for single-year and multiple-year droughts. We anticipate defining drought conditions for each source of supply by using information from the PSMCSD, Monterey County Planning Department, Monterey County Health Department, and other local agencies. We will also estimate the expected reduction in water demand in response to water conservation.
- 2d. Determine Sufficiency. The water supply assessment will provide a discussion of the sufficiency of water supply for the project. This will involve comparison of total water supply and demand for the service area with and without the project under normal conditions with a projection in five-year increments over a 20-year period. The discussion will also address the 20-year projected water supply and demand under single-year and multiple-year drought conditions.

If the analysis indicates that water supply is insufficient, we will describe PSMCSD plans for acquiring additional water supply. In accordance with WSA requirements, these plans will include an estimate of costs, identification of required permits, and a timeframe to develop the water supplies.

- 2e. Evaluate Impacts and Identify Mitigation. We propose combining the CEQA evaluation of potential impacts into the WSA report; this is not only cost-effective, but will allow consideration of water supply and groundwater issues in one cohesive document. The evaluation will focus on the potential impacts of possible increased

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groundwater pumping in the future, including potential drawdown impacts on nearby wells, and cumulative impacts on regional overdraft and seawater intrusion. Evaluation of the availability of long-term water supply will be addressed in Task 2d.

If impacts are deemed significant, mitigation measures recommended for the project are likely to include measures to reduce demand. These could involve alternative project design and phasing, additional water conservation measures, and acquisition of additional supplies. With regard to cumulative impacts, development of mitigation measures will be based in part on ongoing water management planning.

3. Reporting. This task involves preparation of an administrative draft, draft and final WSA report.
 - 3a. Administrative Draft WSA Report. The water supply assessment will be presented in an administrative draft report for EMC and County staff review; we anticipate that this draft also will be provided to MCWRA. The text of the report will be concise and focused on relevant tables. Graphics may be limited to a study area location map and a map of water supply facilities; we anticipate that existing GIS graphics would be available.
 - 3b. Draft WSA Report. Comments will be incorporated into the draft WSA report, which will be provided to PSMCSD for review and comments; these will be addressed in the Final WSA Report.
 - 3c. Final WSA Report. The Final WSA Report will be included as an appendix to the DEIR. The PSMCSD, as the water purveyor, should approve the report prior to release of the draft EIR.
4. Meetings. We assume Todd Engineers will participate in at least one meeting in Monterey County. Todd Engineers can participation in additional meetings and hearings on an as-needed basis.

Wastewater

The proposed project includes expanding the Urban Service Line to include the Moss Landing Business Park, the Moss Landing Power Plant, and the Moss Landing Switch Yard so that they may remove existing septic systems and connect to the sewer system. This would likely result in a beneficial environmental impact. The Monterey Regional Water Pollution Control Agency indicates that they have sufficient capacity in the regional treatment plant to serve the new projects. The EIR will evaluate the physical environmental effects of the local infrastructure upgrades (piping, lift station, etc.) in order to serve buildout. EMC Planning Group Inc. will base this EIR section on the results of Harris and Associates, *Addendum – Engineering Report for*

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Sanitary Sewer System Loss Landing California, and SFE Global, *City of Moss Landing, Sanitary Sewer Flow Monitoring* reports as well as technical information provided as the Moss Landing Storm Sewer Authority project description develops.

Emergency Services

This section of the EIR will address law enforcement, fire protection and ambulance service. The existing locations of the nearest stations and service providers will be described, as well as the existing response times. Environmental impacts, if any, will be described.

2.13 TRANSPORTATION/TRAFFIC

The purpose of the transportation analysis is to evaluate the impacts of the updated Moss Landing Community Plan and three specific projects proposed within the planning area. The Community Plan needs only a program level CEQA analysis, while the individual projects will need project level analyses. A stand-alone transportation impact analysis report will be prepared.

Traffic studies have been prepared for some of these proposed projects and these studies are available as input into the current analysis. These previous traffic studies as well as on-going planning studies by Caltrans have identified some potential improvements along Highway 1 to improve operations and safety. These improvements will be considered in the evaluation of the impacts and potential mitigation.

The impacts of the Community Plan and the developments will be evaluated following guidelines of the Monterey County and incorporate guidelines from Caltrans and the Transportation Agency for Monterey County (TAMC) as needed. While the focus of the analysis will be on the Highway 1 corridor and access to the local roadway system, it will also consider potential impacts to the bicycle, pedestrian, and transit systems. For the individual project, the transportation analysis will also address site access and on-site circulation where detailed site plans are available.

The intersections will be evaluated for the highest peak hour occurring during the weekday morning (7:00 – 9:00 AM) and evening (4:00 – 6:00 PM) peak periods for the following scenarios:

Scenario 1: Existing Conditions – Existing volumes obtained from previous traffic studies plus projected traffic generated by existing but unoccupied buildings in the Moss Landing Green Business Park site. .

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Scenario 2: Individual Project Conditions – Existing volumes plus traffic generated by each of the development projects listed below:

- Monterey Bay Aquarium Research Institute (MBARI)
- Moss Landing Marine Lab-California State University (Marine Labs)
- Gregg's Drilling

Scenario 3: No Project Cumulative Analysis – Year 2030 cumulative analysis scenario will be developed using the AMBAG model to determine a growth factor for through traffic on Highway 1 with origins and destinations outside the immediate Moss Landing study area.

Scenario 4: Community Plan Cumulative Analysis – Year 2030 cumulative traffic volumes including the Community Plan Buildout and the three projects listed above. The AMBAG model will be used to determine a growth factor for through traffic on Highway 1 with origins and destinations outside the immediate Moss Landing study area.

The following key intersections will be evaluated for potential impacts during the weekday peak periods:

Intersections:

1. Highway 1 / Dolan Road
2. Highway 1 / Moss Landing (North)
3. Highway 1 / Moss Landing (South) – Potrero Road
4. Highway 1 / Merritt Road (Highway 183)

Fehr & Peers Transportation Consultants will complete the following tasks for the transportation analysis:

1. Review Existing Reports & Collect Available Data

Fehr & Peers will review the previous traffic studies and collect the available data for the planning area. Traffic studies have been performed by Higgins & Associates (now Hatch-Mott-McDonald), James Jeffery, and Hexagon Transportation Consultants. The most recent report was prepared in July 2008 and will be the primary source of data used for the analysis.

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Fehr & Peers will also work with Monterey County staff to get a concise definition of the Community Plan land uses and the details of the individual development projects.

2. Kick Off Meeting & Site Reconnaissance

A meeting will be held between Fehr & Peers, Monterey County, and Caltrans to discuss the study scope, technical approach, and analysis methodologies. The meeting will also include a discussion of existing operational or safety issues within the study area and the proposed or planned transportation improvements within the study area. Following the kick off meeting, Fehr & Peers will visit the study area to assess the existing conditions as compared to the information provided in the earlier reports and to better understand the proposed or planned roadway improvements.

3. Prepare Trip Estimates & Finalize Scope of Work

The amount of traffic generated by the proposed Community Plan and the individual projects will be developed. Additionally, Fehr & Peers will develop trip generation estimate for the existing unoccupied buildings on the Moss Landing Green Business Park site. Since many of the proposed uses are specialized services or activities, it may be necessary to use sources other than the Institute of Transportation Engineers Trip Generation publications to prepare the trip generation estimates. In these cases, the trip generation may be estimated based on operational factors such as the number of employees, number of visitors, hours of operation, etc.

The directions of approach and departure for the Community Plan, project traffic, and unoccupied buildings will be estimated based on the existing travel patterns and the relative locations of complementary land uses (e.g., location of residential neighborhoods). The distribution will be further refined using the knowledge for previous studies, input from county staff and output from the AMBAG travel demand model.

The trip distribution pattern and trip assignments will be submitted to County staff for review and approval. Refinements to the trip assignments will be made based on staff comments and the list of study intersections may be modified based on these refinements. If needed, the scope of work will be refined to address issues raised during consultation with County staff and Caltrans.

4. Evaluate Existing Conditions

Existing intersection and highway segment traffic counts will be obtained from published reports and each jurisdiction's data sources. All counts will be dated 2008 or later. Any new counts will be conducted as an additional service. Trips developed in Task 3 above

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

associated with the unoccupied existing buildings on the Moss Landing Green Business Park site will be added to the counts to develop volumes under Existing Conditions.

The physical characteristics of the site and the surrounding roadway network will be reviewed during a site visit to verify existing roadway cross-sections, intersection lane configurations, traffic control devices, surrounding land uses, and the locations of pedestrian, bicycle, and transit facilities. Observations of traffic operations will be conducted to verify or explain calculated service levels.

The existing operation of the key intersections will be evaluated with level of service calculations using the *2000 Highway Capacity Manual* (HCM) operations method to provide consistency with County and Caltrans guidelines. The SYNCHRO 6 analysis software will be used to calculate the Level of Service of unsignalized intersections. This approach is consistent with previous County studies for the Moss Landing planning area and Caltrans TIA guidelines. A description of existing transit, bicycle, and pedestrian facilities will also be included as part of this task.

In addition to evaluating the operations of the intersections, Fehr & Peers will review the available accident data for Highway 1. Request will be made to both the County and Caltrans for updated information on accidents within the study area. This data will be used in preparing potential mitigation and recommendations for improved access within the planning area.

5. Evaluate Each Specific Development Project

The project generated trips estimated in Task 3 above will be added to the Existing Conditions. Level of service calculations will be prepared for each individual project to estimate the operating levels of the study intersections with project-generated traffic under this scenario. Operation of study intersections will be analyzed based on the LOS results. In addition, the need for extending left-turn pockets at study intersections near the site to accommodate projected queues from the SYNCHRO analysis will be noted for key left-turn movements where the projects add traffic. If the addition of a project's traffic results in an operational or safety deficiency, those issues will be identified.

The effect of the proposed project on bicycle, pedestrian, and transit facilities and services will also be addressed under this task. Potential conflicts with existing or planned non-automobile mode improvements will be identified. The level of this analysis may vary between projects depending on the availability of a detailed site plan. Since Fehr & Peers specializes in bicycle and pedestrian planning, we will note any impediments to these forms of access to the project site.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

In order to simplify the review of the project level evaluations, the results of the project level analyses will be summarized in a matrix or graphic format. This matrix will identify if there are specific impacts at intersections that are generated by an individual project.

6. Evaluate Year 2030 with No Project Conditions

An annualized growth factor will be applied to existing volumes to estimate additional through traffic growth to Year 2030. The growth factor will be determined in consultation with County staff using historical traffic counts and information from the Association of Monterey Bay Area Governments (AMBAG) travel demand model.

Intersection level of service calculations will be conducted to estimate the operating levels of the study intersections without project generated traffic. Operation of study intersections will be evaluated based on the LOS results. Calculations will be made to determine the level of traffic contributed by each of the development projects at the study intersections. These calculations will be made by comparing the overall growth in traffic to the project trips using the intersection.

7. Evaluate Year 2030 with Community Plan Conditions

The traffic generated by the Community Plan and the individual developments will be added to the 2030 No Project Conditions to create the Cumulative Project Conditions. The Year 2030 Community Plan Conditions analysis will assume full development of the Community Plan land uses and the individual development projects. The traffic generated from the Community Plan and the individual development projects will be added to the Year 2030 No Project Conditions.

Intersection level of service calculations will be conducted to estimate the operating levels of the study intersections with project-generated traffic under this scenario. Operation of study intersections will be evaluated based on the LOS results. Calculations will be made to determine the level of traffic contributed by each of the development projects at the study intersections. These calculations will be made by comparing the overall growth in traffic to the project trips using the intersection.

8. Evaluate Site Access, and On-Site Circulation

Site access and on-site circulation will be evaluated for the three proposed development projects based on the site design, adjacent roadways, and driveway layout. The extent of this review will be dependent on the site plan provided. The number of proposed access points and the required traffic control devices will be reviewed as part of this task.

To the extent possible, the existing parking supply and the projected parking demand will be evaluated. This analysis will include comparing the proposed supply to city standards.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

9. Identify Significant Impacts and Recommend Mitigation Measures

Significant impacts will be identified using appropriate criteria for each travel mode and circulation issue. Project impacts from the proposed development will be identified by comparing the results of the level of service calculations for Background Conditions to the results for individual Project Conditions. Year 2030 (long-term) impacts of the proposed Community Plan will be identified by comparing the results of the level of service calculations for Year 2030 No Project Conditions. County and Caltrans TIA guidelines will be used to identify impacts for the facilities.

For significant impacts, feasible mitigation measures will be recommended to reduce impacts to a less than significant level where possible. Measures could include physical improvements such as adding turn lanes, installing traffic signals, or restricting turning movements. Schematic diagrams of physical improvements will be provided as an additional service and potential secondary impacts of those mitigation measures (e.g., additional right-of-way, tree removal, negative impacts to bicyclists and pedestrians) will be identified based on field observations.

Safety on Highway 1 is the primary traffic issue for the Moss Landing Planning Area. Previous and ongoing traffic studies have examined the need to provide access to adjacent land use and serve regional through traffic in a safe and efficient manner. The ongoing Caltrans' Highway 1 Corridor System Management Program is considering options to improve traffic flow and safety within the planning area. These options range from improvements within the existing alignment to creating a new by-pass of the planning area. Fehr & Peers will review the recommendations from previous studies and coordinate with Caltrans and the County regarding ongoing planning effort in order to develop a comprehensive approach to providing access to the planning area and enhancing the safety on Highway 1.

Project impacts to the surrounding transit, bicycle, pedestrian facilities and parking will also be identified. Measures to mitigate project impacts on these facilities will be recommended including providing appropriate linkages to adjacent land uses, and improving facilities for all modes including bus turnouts, shelters, etc.

10. Prepare Documentation

Fehr & Peers will prepare a stand-alone transportation impact analysis (TIA) report, which will include text, graphics, and tables to describe the potential impacts of the proposed project and corresponding mitigation measures. An administrative draft of the report will be submitted for review and comment. Fehr & Peers will address any questions and make any corrections needed to the document and a draft report will be prepared for review by

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

County staff. Fehr & Peers will address any questions and make any corrections needed to the document and prepare a final TIA for public review and circulation with the environmental document.

This report would be included as an appendix to the EIR.

2.14 EFFECTS FOUND TO BE LESS THAN SIGNIFICANT

This section of the EIR will briefly summarize environmental impacts that were found to be less than significant and eliminated from further discussion.

2.15 CUMULATIVE IMPACTS

If the County's General Plan Update has been adopted prior to beginning this section of the EIR, EMC would use the County's General Plan Update EIR to prepare this section. If the Update has not yet been adopted, EMC will work with County staff to develop a cumulative impact scenario to evaluate in the EIR.

2.16 OTHER SECTIONS REQUIRED BY CEQA

Other areas that will be addressed, consistent with the CEQA Guidelines, include irretrievable commitment of resources. Significant and unavoidable impacts will also be summarized. The EIR will include all sections required by CEQA including the summary, a project description, and impacts and mitigation measures.

2.17 ALTERNATIVES

The EIR will evaluate up to three alternatives in addition to the no project alternative. These alternatives will be developed in consultation with County staff.

3.0

SCOPE OF WORK

EMC Planning Group Inc. (“Consultant”) proposes to prepare documentation in compliance with CEQA as identified in the County’s request for proposals. The scope of work includes the following deliverables:

- Project Description for the EIR;
- Notice of Preparation;
- Technical Reports;
- Administrative Draft Environmental Impact Report (EIR);
- Proof Draft EIR;
- Draft EIR;
- Response to Comments; and
- Final EIR with Mitigation Monitoring & Reporting Program.

In addition, two optional tasks are presented:

- CEQA Noticing
- CEQA Findings and Statement of Overriding Considerations

The EIR will be prepared in a manner that is concise, clear, and easy to read for the general public. The environmental documents will be prepared in accordance with CEQA and the state CEQA guidelines. The scope to be undertaken toward the completion of the environmental review services involves the tasks outlined below.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Tasks

The proposed tasks are presented below.

Task 1 Administration/Management

- 1.1 Contract negotiations and management.
- 1.2 Initiate subconsultants and project team coordination.
- 1.3 Provide CEQA consultation and management services for client.
- 1.4 Provide regular email progress reports to County project manager.

Task 2 Site Investigation/Research/Kick-Off Meeting

- 2.1 Conduct a site visit to document existing conditions and surrounding land uses.
- 2.2 Review previous documentation prepared for the community and vicinity.
- 2.3 Attend a kick-off meeting with County staff and the applicants to discuss the project and obtain all project materials. Issues expected to be addressed include the following: project description and objectives, scheduling, and scope of work.

Task 3 Prepare Complete and Detailed Project Description

- 3.1 Prepare a draft project description for review and approval by County staff. The project description will include the anticipated build-out scenario for the Community Plan Update, a general description of projects that are anticipated but for which no application has been received, and a detailed description of each development project for which the County has received an application. It will also include all anticipated infrastructure improvements, both “on-site” and “off-site”. The project description will provide a description of the entire “program” at the level of details the program components have been developed. Once the County staff has approved the project description for the EIR process, any changes to the project description that would have an affect on the environmental analysis, may require a contract amendment. Therefore, it is imperative to the budget and the schedule that project description remain static throughout the process.

Provide five (5) hard copies of the draft project description and one (1) electronic version.

- 3.2 Prepare a final project description for use in both the NOP and the EIR.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 4 Notice of Preparation and Scoping Meeting

- 4.1 Prepare a draft notice of preparation (NOP) for review and approval by County staff. One (1) electronic copy will be provided.
- 4.2 Obtain comments from County staff. Comments will be incorporated into the final NOP. The final NOP will reflect all corrections, additions and deletions required by County staff. One (1) electronic copy will be provided to County staff for copying and circulation.
- 4.3 Attend public scoping meeting to hear comments from the public on the scope of the EIR.

Task 5 Prepare Technical Studies

The following separate technical studies will be completed for use in the EIR. The scope of each of these studies was presented earlier in this proposal.

- 5.1 Conduct Transportation Impact Analysis (Fehr & Peers)
- 5.2 Comprehensive Cultural Resources Evaluation Report (Archaeological Consulting)
- 5.3 Noise Study (Brown-Buntin Associates)
- 5.4 SB610 Water Supply Assessment (Todd Engineers)
- 5.5 Terrestrial Biological Analysis Report (EMC Planning Group Inc.)
- 5.6 Marine Biological Analysis Report (Applied Marine Sciences)
- 5.7 Air Quality and Climate Change Report (EMC Planning Group Inc.)

Task 6 Administrative Draft EIR

- 6.1 Review all responses to the notice of preparation to ensure that all relevant concerns raised are addressed in the administrative draft EIR. Responses to all relevant concerns will be included in the EIR.
- 6.2 Correspond with County departments, as well as responsible, trustee, and other affected agencies to ensure that all potentially significant issues are addressed in the administrative draft EIR. The intent of this coordination is to ensure that responsible, trustee, and affected agencies have the opportunity for input prior to the preparation of the administrative draft EIR.
- 6.3 Prepare the administrative draft EIR. Mitigation measures will be prepared in standard County format where available and applicable.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- 6.4 Print and deliver two (2) bound copies and one (1) in electronic format on CD to the County for review and comment. County staff will distribute the administrative draft EIR for review by the appropriate County departments and will coordinate preparation of the County's comments.

Task 7 Proof Draft EIR

- 7.1 Attend meeting with County staff to discuss the administrative draft EIR and the County comments on the document. Several hours have been budgeted for this effort.
- 7.2 Revise administrative draft EIR to incorporate County staff comments and provide two (2) hard copies and one (1) electronic copy of the proof draft for County staff's final review and approval.

Task 8 Draft EIR / Moss Landing Community Plan Committee Meeting (1)

- 8.1 Revise proof draft EIR to incorporate County staff comments.
- 8.2 Print and deliver twenty-five (25) bound copies and fifty (50) electronic copies on CD to the County for public circulation and comment.
- 8.3 Attend one (1) Moss Landing Community Plan Committee Meeting

Task 9 Response to Comments

- 9.1 Obtain and evaluate comments received during the public review period.
- 9.2 Prepare draft response to comments and provide one electronic version for review and comment by County staff.
- 9.3 Meet with County staff to discuss comments. Several hours have been budgeted for this effort.
- 9.4 Prepare final response to comments for use in the final EIR.

Task 10 Final EIR and Mitigation Monitoring and Reporting Program

- 10.1 Prepare administrative final EIR as a separate document (from the draft EIR) including a revised summary section, a list of all agencies and individuals commenting on the draft EIR, comments received during the public review period for the draft EIR, responses to those comments, changes to the draft EIR, and a mitigation monitoring and reporting program in the County format.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- 10.2 Submit two (2) bound copies and five (5) CDs to County staff for review and comment.
- 10.3 Prepare final EIR based upon comments received from County staff.
- 10.4 Print and deliver twenty-five (25) bound copies and forty (40) CDs to County staff for circulation to those who commented on the draft EIR.

Task 11 Public Hearings

- 11.1 Attend public hearing at the Planning Commission. Be prepared to summarize the findings in the EIR and to answer questions.
- 11.2 Attend public hearing at the Board of Supervisors. Be prepared to summarize the findings in the EIR and to answer questions.

Optional Tasks

OT-1 Notice of Completion, Notice of Availability, and Notice of Determination

Although not included in the original RFP, Addendum #1 did indicate the County's desire to have the consultant prepare the CEQA notices. Therefore, it is included as an optional task.

Prepare the notice of completion, notice of availability, and notice of determination in electronic format for use by County staff.

OT-2 CEQA Findings and Statement of Overriding Considerations

As an optional task, prepare the draft and final CEQA findings and statement of overriding considerations in electronic format for review by County staff and County Counsel.

OT-3 Attend up to three (3) Moss Landing Community Plan Committee Meetings

As an optional task, attend up to three (3) Moss Landing Community Plan Committee Meetings.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

**Moss Landing Community Plan Update Program EIR (Modified Budget
Budget Breakdown by Percentages**

Item:	Budget Amount	Percent of Budget
Sr. Principal	\$ 6,345.00	2.5%
Principal	\$ 12,800.00	5.0%
Principal Planner	\$ 66,150.00	25.9%
Biologist/ Senior Planner	\$ 13,375.00	5.2%
Senior Planner	\$ 22,500.00	8.8%
Associate Planner	\$ 12,600.00	4.9%
Production	\$ 4,250.00	1.7%
Administrative	\$ 2,700.00	1.1%
Todd Engineers	\$ 39,000.00	15.3%
Fehr & Peers	\$ 29,500.00	11.6%
Applied Marine Sciences	\$ 24,376.00	9.6%
Brown-Buntin Associates	\$ 7,500.00	2.9%
Archaeological Consulting	\$ 4,000.00	1.6%
Additional Costs & Overhead	\$ 9,890.25	3.9%
Total:	\$ 254,986.25	100.0%
Total Staff Costs	\$ 140,720.00	55%
Total Subconsultant Costs	\$ 104,376.00	41%
Additional Costs & Overhead	\$ 9,890.25	4%

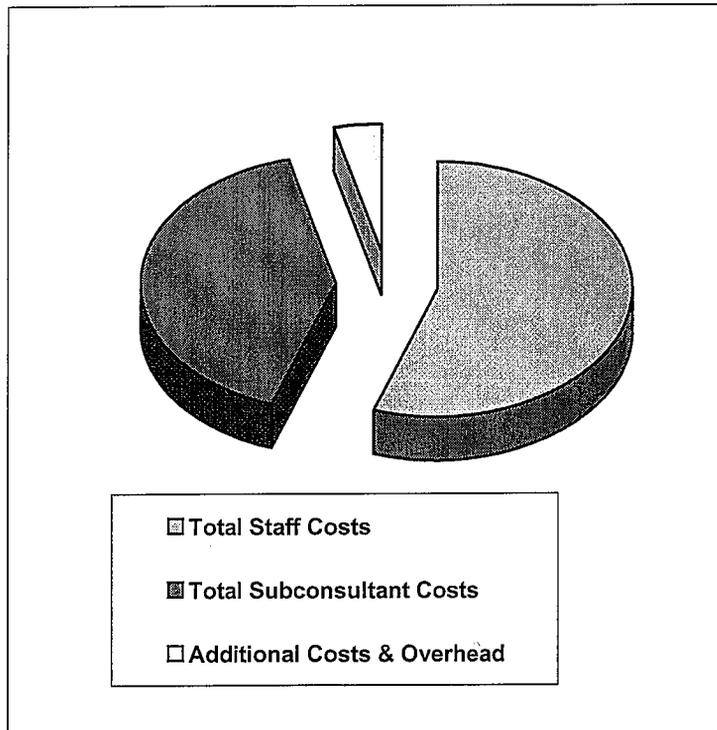


EXHIBIT A -- SCOPE OF SERVICES/PAYMENT PROVISIONS

Moss Landing Community Plan Update Program EIR (Modified Budget 12-14-09)												
EMC Planning Group Inc.												
Task	Sr. Principal \$235.00	Principal \$200.00	Principal Planner \$150.00	Biologist/ Senior Planner \$125.00	Senior Planner \$125.00	Associate Planner \$105.00	Production \$125.00	Administrative \$75.00	Total Hours	Total Cost		
Staff Billing Rate (Per Hour)												
1. Administration and Management	12	16	48	0	0	0	0	0	76	\$13,220.00		
2. Site Investigation/Research/Kick-off Meeting	0	0	16	6	14	0	0	0	50	\$6,370.00		
3. Project Description	1	2	24	0	0	0	0	8	37	\$5,385.00		
4. NCP and Scoping Meeting	0	5	10	0	0	0	0	0	23	\$3,280.00		
5. Technical Studies	0	4	40	0	0	0	0	0	50	\$7,550.00		
6. Admin Draft EIR	6	19	144	84	104	40	18	8	423	\$57,360.00		
7. Proof Draft EIR	0	4	4	24	22	2	2	6	103	\$13,535.00		
8. Draft EIR	0	2	25	2	16	8	2	2	69	\$8,780.00		
9. Response to Comments	0	6	48	4	8	16	2	4	80	\$11,290.00		
10. Final EIR and Mitigation Monitoring Program	0	6	30	4	14	14	2	8	78	\$10,270.00		
11. Public Hearings	8	0	12	0	0	0	0	0	20	\$3,680.00		
Subtotal (Hours)	27	64	441	107	180	120	34	36	1,009	Total Cost	\$140,720.00	
Subtotal (Cost)	\$6,345.00	\$12,800.00	\$66,150.00	\$13,375.00	\$22,500.00	\$12,600.00	\$4,250.00	\$2,700.00		\$254,986.25		
Additional Costs												
Production Costs										\$3,199.00		
Travel Costs										\$290.00		
Postal/Deliverables										\$500.00		
Communication										\$0.00		
Miscellaneous										\$500.00		
Administrative Overhead 5%										\$22,245		
Total										\$4,671.45		
Subconsultant Fees												
Todd Engineers										\$39,000.00		
Fehr & Peers										\$29,500.00		
Applied Marine Sciences										\$24,376.00		
Brown-Burnin Associates										\$7,500.00		
Archaeological Consulting										\$4,000.00		
Subconsultant Overhead 5%										\$5,218.80		
Total										\$109,594.80		
											Total Costs	\$254,986.25

Note: This budget is based upon receipt of timely information from County staff and the applicants and completion of the EIR process within 12 months, as indicated on page 15 of the RFP. A significant expansion of the schedule outside the control of the EMC consulting team may require a contract amendment.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

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. _____

Agreement Term: *May 4, 2010 to May 31, 2011*

Agreement Amount: *\$ 300,000.00 (\$254,986.00 base budget plus \$45,014.00 project contingency)*

<i>This Invoice:</i>	\$	13,220.00	<i>Administration and Management</i>	_____
	\$	6,370.00	<i>Site Investigation/Research/Kick-off Meeting</i>	_____
	\$	5,385.00	<i>Project Description</i>	_____
	\$	3,280.00	<i>NOP and Scoping Meeting</i>	_____
	\$	7,550.00	<i>Technical Studies</i>	_____
	\$	57,360.00	<i>Admin Draft EIR</i>	_____
	\$	13,535.00	<i>Proof Draft EIR</i>	_____
	\$	8,780.00	<i>Draft EIR</i>	_____
	\$	11,290.00	<i>Response to Comments</i>	_____
	\$	10,270.00	<i>Final EIR and Mitigation Monitoring Program</i>	_____
	\$	3,680.00	<i>Public Hearings</i>	_____
	\$	4,671.00	<i>Additional Costs</i>	_____
	\$	39,000.00	<i>Todd Engineers</i>	_____
	\$	29,500.00	<i>Fehr & Peers</i>	_____
	\$	24,376.00	<i>Applied Marine Sciences</i>	_____
	\$	7,500.00	<i>Brown-Buntin Associates</i>	_____
	\$	4,000.00	<i>Archaeological Consulting</i>	_____
	\$	5,219.00	<i>Subconsultant Overhead</i>	_____

Remaining Balance \$ _____

Approved as to Work/Payment: _____
John H. Ford, Planning Services Manager

Date

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

All Invoices Are To Be Sent To:
Jaime Martinez, Accounting Technician
County of Monterey Resource Management Agency
Planning Department
168 W. Alisal Street, 2nd Floor, Salinas, CA 93901
Telephone: (831) 755-4829

2. Invoice Detail

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

3. Transfer from Project Contingency Account

Transfer of funding from the Project Contingency Account (total contingency of \$45,014.00) requires the prior written approval of the Director of Planning and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five working days of receipt of the recommendation, the Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the Director of Planning, or in his absence, the Assistant Director. Within ten working days thereafter, the Director of Planning or the Assistant Director will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send his decision in writing to the Project Applicant, and CONTRACTOR.

Unless he denies the recommended transfer, the Director or Assistant Director of Planning will ask the Project Applicant to make a decision within five working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the Director of Planning or the Assistant Director, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.



EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

County of Monterey
Resource Management Agency
Planning Department

CONSULTANT NAME: EMC Planning Group, Inc.
PROJECT NAME: Moss Landing Community Plan Update Environmental Impact Report
INVOICE NUMBER: _____
INVOICE DATE: _____

Project Manager/Planner: John H. Ford
PLN: PD080541
PSA Term: 05/04/10 - 05/31/11

Task #	Task Description	Allocated # of Hours for Task Completion	Hours Used for Task Completion to Date	Remaining # of Hours Available for Task Completion	Allocated Amount for Completion	Invoice #1 - Dated	Invoice #2 - Dated	Invoice #3 - Dated	Invoice #4 - Dated	Invoice #5 - Dated	Invoice #6 - Dated	Invoice #7 - Dated	Invoice #8 - Dated	Invoice #9 - Dated	Invoice #10 - Dated	Percentage of Remaining Base Budget for Task Completion	Remaining Base Budget
1.0	Administration and Site Investigation/ Research/ Kick-off Meeting	76.00	76.00	76.00	\$13,220.00											100%	\$13,220.00
2.0	Project Description	50.00	50.00	50.00	\$6,370.00											100%	\$6,370.00
3.0	NOP and Scoping Meeting	37.00	37.00	37.00	\$5,385.00											100%	\$5,385.00
4.0	Technical Studies	23.00	23.00	23.00	\$3,280.00											100%	\$3,280.00
5.0	Admin Draft EIR	50.00	50.00	50.00	\$7,550.00											100%	\$7,550.00
6.0	Proof Draft EIR	423.00	423.00	423.00	\$57,360.00											100%	\$57,360.00
7.0	Draft EIR	103.00	103.00	103.00	\$13,535.00											100%	\$13,535.00
8.0	Response to Comments	69.00	69.00	69.00	\$8,780.00											100%	\$8,780.00
9.0	Final EIR and Mitigation Monitoring	80.00	80.00	80.00	\$11,290.00											100%	\$11,290.00
10.0	Program	78.00	78.00	78.00	\$10,270.00											100%	\$10,270.00
11.0	Public Hearings	20.00	20.00	20.00	\$3,680.00											100%	\$3,680.00
	Additional Costs				\$4,671.00												\$4,671.00
	Todd Engineers				\$39,000.00												\$39,000.00
	Fehr & Peers				\$29,500.00												\$29,500.00
	Applied Marine Science				\$24,376.00												\$24,376.00
	Brown-Buntin Associates				\$7,500.00												\$7,500.00
	Archaeological Consulting				\$4,000.00												\$4,000.00
	Subconsultant Overhead				\$5,219.00												\$5,219.00
	Grand Total	1009.00	0.00	1009.00	\$254,986.00	\$0.00	100%	\$254,986.00									

Consultant: Please complete yellow highlighted sections utilizing appropriate invoice column. Pink highlighted section is utilized for project tracking only.

PRODUCER (831)624-1234 FAX (831)624-4605 Carmel Insurance Agency, Inc. 7th & San Carlos P.O. Box 6117 Carmel, CA 93921-6117	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED E M C Planning Group, Inc. 301 Lighthouse Avenue, Suite C Monterey, CA 93940	INSURERS AFFORDING COVERAGE NAIC # INSURER A: American Automobile Insurance Company INSURER B: American Insurance Company INSURER C: INSURER D: INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR (ADD'L LTR)	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	AZC80811869	03/15/2010	03/15/2011	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ Included GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ Included
B		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	MZA80267090	03/15/2010	03/15/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 RE: All Work Performed on Behalf of Certificate Holder - Subject to a Signed, Written Agreement:
 Certificate Holder is Additional Insured under the General Liability per Endorsement AB09067 12/93.
 Certificate Holder is Additional Insured under the Auto Liability per CA2048 2/99.
 Primary Wording Under Policy Form CA0001 10-01, Section B. 5. Other Insurance. Waiver of
 Subrogation under Form CA7018 10-01, Section C.

CERTIFICATE HOLDER County of Monterey Its agents, officers & employees Contracts/Purchasing Department 168 West Alisal Street 3rd Floor Salinas, CA 93901	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE Matthew Little, CIC/MRT <i>Matthew Little</i>
---	--

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

PRODUCER (831)624-1234 FAX (831)624-4605
 Insurance Agency, Inc.
 & San Carlos
 P.O. Box 6117
 Carmel, CA 93921-6117

RECEIVED
JUL 09 2010

INSURED E M C Planning Group, Inc.
 301 Lighthouse Avenue
 Suite C
 Monterey, CA 93940

RESOURCE MANAGEMENT AGENCY
 PUBLIC WORKS - ADMIN

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Employers Compensation	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

NSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OF AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below Y/N <input type="checkbox"/>	ETG1154280001	07/10/2010	07/10/2011	X *WC'S STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

e: All operations as pertains to named insured

CERTIFICATE HOLDER	CANCELLATION
Monterey County Public Works Department Dalia Mariscal, Management Analyst II 168 W Alisal St., 2nd Floor Salinas, CA 93901	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, AND THE INSURER SHALL BE RESPONSIBLE FOR THE COST OF SUCH MAIL. AUTHORIZED REPRESENTATIVE Matthew Little, CIC/MRT

PRODUCER (831)624-1234 Carmel Insurance Agency, Inc. 7th & San Carlos P.O. Box 6117 Carmel, CA 93921-6117	FAX (831)624-4605	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED E M C Planning Group, Inc. 301 Lighthouse Avenue, Suite C Monterey, CA 93940		INSURERS AFFORDING COVERAGE
		INSURER A: Landmark American Insurance Company
		INSURER B:
		INSURER C:
		INSURER D:
		INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	OTHER Environmental Consultants Professional Liability	LHR813887	05/01/2010	05/01/2011	\$1,000,000 per claim \$3,000,000 Aggregate \$20,000 SIR

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 RE: All Work Performed on Behalf of Certificate Holder

CERTIFICATE HOLDER

CANCELLATION

County of Monterey
 Its agents, officers & employees
 Contracts/Purchasing Department
 168 West Alisal Street
 3rd Floor
 Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Matthew Little, CIC/MRT



IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

Additional Insured - Owners, Lessees or Contractors - AB 90 67 12 93
Policy Amendment Section II

Insured EMC Planning Group, Inc. Policy Number AZC80811869
Producer Carmel Insurance Agency, Inc. Effective Date March 15, 2010

Schedule

Name of Person(s) or Organization(s)
County of Monterey, its officers, agents and employees
Contracts/Purchasing
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

If no entry appears above, information required to complete this Endorsement will be shown in the Declarations (applicable to this Endorsement.)

The following is added to Part I - WHO IS AN INSURED in the Business Liability Section of this policy

arising out of your work for that insured by or for you.

The person or organization shown in the Schedule is also an insured, but only with respect to liability

All other terms and conditions of the policy apply.

Primary Wording Per Policy Form AB198 8/07 - Attached

This Form must be attached to Change Endorsement when issued after the policy is written.
is of the Fireman's Fund Insurance Companies as named in the policy



Secretary

EMC Planning Group, Inc. - AZC80811869

March 15, 2010 to March 15, 2011

ABC MultiCover - AB 91 89 08 07

This endorsement modifies insurance provided under the following:

American Business Coverage

Your policy is broadened and clarified as follows:

1. Non Employment Discrimination Liability

Unless Personal Injury or Advertising Injury is excluded from this policy:

A. Section III - Definitions, Item 17. Personal Injury is amended to include:

f. Discrimination

B. Section III - Definitions, Item 2. Advertising Injury is amended to include:

e. Discrimination

C. Section III - Definitions is amended to include:

30. Discrimination means the unlawful treatment of individuals based on race, color, ethnic origin, gender, religion, age, or sexual preference.

D. Section II - Liability Coverage, Part E. Exclusions, Item 1.p Personal Injury or Advertising Injury is amended to include:

(11) Arising out of discrimination directly or indirectly related to the past employment, employment or prospective employment of any person or class of persons by any insured; or

(12) Arising out of discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any dwelling,

permanent lodging, or premises by or at the direction of any insured; or

(13) Arising out of discrimination, if insurance thereof is prohibited by law; or

(14) Fines, penalties, specific performance, or injunctions levied or imposed by a governmental entity, or governmental code, law, or statute because of discrimination.

2. Blanket Additional Insured

Section II - Liability Coverage, Part I. Who Is An Insured, Item 2. is amended to include:

f. Any person or organization that you are required by a written insured contract to include as an insured, subject to all of the following provisions:

(1) Coverage is limited to their liability arising out of:

(a) the ownership, maintenance or use of that part of the premises, or land owned by, rented to, or leased to you; or

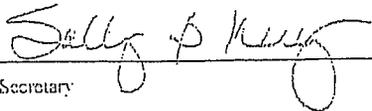
(b) your ongoing operations performed for that insured; or

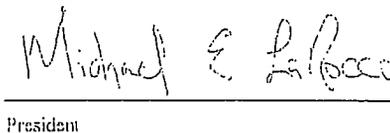
(c) that insured's financial control of you; or

(d) the maintenance, operation or use by you of equipment leased to you by such person(s) or organization(s); or

This Form must be attached to Change Endorsement when issued after the policy is written.

One of the Fireman's Fund Insurance Companies as named in the policy


Secretary


President

- (e) a state or political subdivision permit issued to you.
- (2) Coverage does not apply to any occurrence or offense:
 - (a) which took place before the execution of, or subsequent to the completion or expiration of, the written insured contract, or
 - (b) which takes place after you cease to be a tenant in that premises.
- (3) With respect to architects, engineers, or surveyors, coverage does not apply to Bodily Injury, Property Damage, Personal Injury or Advertising Injury arising out of the rendering or the failure to render any professional services by or for you including:
 - (a) The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and
 - (b) Supervisory, inspection, or engineering services.

If an Additional Insured endorsement is attached to this policy that specifically names a person or organization as an insured, then this coverage does not apply to that person or organization.

3. Blanket Additional Insured for Vendors

Unless the Products-Completed Operations Hazard is excluded from this policy, Section II - Liability Coverage, Part I. Who Is an Insured, Item 2. is amended to include:

- g. Any vendor but only with respect to Bodily Injury or Property Damage arising out of your products which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:
 - 1. The insurance afforded the vendor does not apply to:
 - a. Bodily Injury or Property Damage for which the vendor is obligated to pay damages by reason of the

assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

- b. Any express warranty unauthorized by you;
- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container.
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.

- 2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

If an Additional Insured - Vendors endorsement is attached to this policy that specifically names a person or organization as an insured, then this coverage does not apply to that person or organization.

4. Blanket Waiver of Subrogation

Section II - Liability Coverage, Part K. Liability and Medical Payments General Conditions, is amended to include:

6. Transfer of Rights of Recovery Against Others to us and Blanket Waiver of Subrogation

- a. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair those rights. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.
- b. If required by a written insured contract, we waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your operations or your work for that person or organization.

5. Broadened Named Insured

Section II - Liability Coverage, Part I. Who Is An Insured, Item 4. is replaced with:

4. All of your subsidiaries, companies, corporations, firms, or organizations, as now or hereafter constituted, qualify as Named Insured under this policy if:
 - (a) you have the responsibility of placing insurance for each such entity; and
 - (b) coverage for the entity is not otherwise more specifically provided; and
 - (c) the entity is incorporated or organized under the laws of the United States of America.

But each entity is insured only while you own, during the policy period, a controlling interest in such entity of greater than 50% of the stock or assets. However:

- (a) Coverage under this provision is afforded only until the end of the policy period, or the 12 month anniversary of the policy inception date, whichever is earlier;
- (b) Coverage C does not apply to bodily injury or property damage that occurred

before you acquired or formed the organization;

- (c) Coverage C does not apply to personal injury or advertising-injury arising out of an offense committed before you acquired or formed the organization.

6. Medical Payments

Unless Coverage D. Medical Payments is excluded from this policy:

- A. Section II - Liability Coverage, Part H. Exclusions, Item 2.f. is replaced with:

- f. Included within the products-completed operations hazard. However, this exclusion does not apply to expenses for dental services.

- B. Section II - Liability Coverage, Part G. Coverage, Item 2., is amended to include:

- c. Coverage D. Medical Payments is primary and not contributing with any other insurance, even if that other insurance is primary also.

7. Tenant's Legal Liability

- A. Section III - Liability Coverage, Part J. Liability and Medical Payments Limits of Insurance, Item 3. is replaced with:

3. The most we will pay under Coverage C - Liability for damages because of property damage to premises while rented to you, temporarily occupied by you with the permission of the owner, or managed by you under a written agreement with the owner:

2. arising out of any Covered Cause of Loss shall be the greater of:

(1) \$1,000,000; or

(2) The Tenant's Legal Liability limit shown in the Declarations.

8. Chartered Aircraft

Section II - Liability Coverage, Coverage C, Part H. Exclusions, Item 1.g. is amended to include:

- (5) An aircraft in which you have no ownership interest and that you have chartered with crew.

9. Coverage Territory Broadened

Section III - Definitions, Item 5.a. is replaced with:

- a. The United States of America (including its territories and possessions), Puerto Rico, Canada, Bermuda, the Bahamas, the Cayman Islands and the British Virgin Islands.

10. Broadened Advertising Injury

Unless Advertising Injury is excluded from this policy:

A. Section III - Definitions, Item 2. is replaced with:

2. Advertising Injury means injury arising out of one or more of the following offenses:

- a. Oral, written, televised or videotaped publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- b. Oral, written, televised or videotaped publication of material that violates a person's right of privacy;
- c. Misappropriation of advertising ideas or style of doing business; or
- d. Infringement of trademark, copy-right, title or slogan.

B. Section II - Liability Coverage, Coverage C, Part H. Exclusions, Items 1.p.(1) and (2) are replaced with:

- (1) Arising out of oral, written, televised or videotaped publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written, televised or videotaped publication of material whose first publication took place before the beginning of the policy period;

11. Broadened Personal Injury

Unless Personal Injury is excluded from this policy, Section III - Property, Liability and Medical

Payments Definitions, Items 17.b., d. and e. are replaced with:

- b. Malicious prosecution or abuse of process;
- d. Oral, written, televised or videotaped publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written, televised or videotaped publication of material that violates a person's right of privacy;

12. Broadened Personal or Advertising Injury

Unless Personal Injury or Advertising Injury is excluded from this policy, Section II - Liability Coverage, Coverage C, Part H. Exclusions, Item 1.p.(4) Exclusions is deleted in its entirety.

13. Fellow Employees Coverage

Section II - Liability Coverage, Part I. Who Is an Insured, Item 2.a.(1) is amended as follows:

- (1) Personal Injury to you or to a co-employee while in the course of his or her employment, or the spouse, child, fetus, embryo, parent, brother, sister or any member of the household of that employee or co-employee as a consequence of such Personal Injury; or for any obligation to share damages with or repay someone else who must pay damages because of the injury; or

14. Mental Anguish Is Included in Bodily Injury

Section III - Definitions, Item 4. is replaced with:

- 4. Bodily injury means bodily injury, sickness or disease sustained by a person. It includes death or mental anguish which result at any time from such physical harm, physical sickness or physical disease. Mental anguish means any type of mental or emotional illness or disease.

15. Unintentional Failure to Disclose Hazards

Section II - Liability Coverage, Part K. Liability and Medical Payments General Conditions. is amended to include:

6. Unintentional Failure to Disclose Hazards

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

16. Supplementary Payments, Increase Limits

Section II - Liability Coverage, Part G. Coverage, Items 1.c. (2) and (4) are replaced with:

- (2) The cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or suit including substantiated loss of earnings up to \$500 a day because of time off work.

17. Per Location Aggregate

- A. Section II - Liability Coverage, Part J. Limits of Insurance, Item 4. is amended to include:

The Aggregate Limit of Insurance applies separately to each location owned by you, rented to you, or occupied by you with the permission of the owner.

- B. Section III - Property, Liability and Medical Payments Definitions, is amended to include:

31. Location means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of railroad.

18. Amended Duties in the Event of an Occurrence, Offense Claim or Suit

Section II - Liability Coverage, Part K. Liability and Medical Payments General Conditions. Items 2.a. and b. are replaced with:

- a. In the event of an occurrence, offense, claim, or suit, you must promptly notify us. Your duty to promptly notify us is effective when your executive officers, partners, members, or

legal representatives are aware of the General Liability occurrence, offense, claim, or suit. Knowledge of an occurrence, offense, claim, or suit by other employee(s) does not imply you also have such knowledge.

- b. To the extent possible, notice to us should include:

- (1) How, when and where the occurrence or offense took place;
- (2) The names, addresses, and telephone numbers of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the occurrence, offense, claim, or suit.

19. Common Policy Conditions (AB 00 09 A 01 87), Part H. Other Insurance, Item 2. is replaced with:

2. Coverage C - Liability

If other valid and collectible insurance is available to any insured for a loss we cover under Coverage C of this Coverage Part our obligations are limited as follows:

- a. The insurance provided under this policy is primary if you are required by a written insured contract to include any person or organization as an insured, but only with respect to that insured's liability arising out of the ownership, maintenance, or use of that part of the premises owned by or rented to you, or your work for that insured by or for you. Any other insurance available to that person or organization is excess and noncontributory with this insurance, or;
- b. Except for the circumstance described in 2.a., above, the insurance provided under this policy is excess over any other liability insurance available to any insured whether such other insurance is written as primary, excess, contingent or any other basis. An exception applies when any insured specifically has purchased excess insurance to apply in excess of the limits of insurance shown in the Declarations of this Coverage Part for Coverage C.

20. Damage to Invitees' Automobiles from Falling Trees or Tree Limbs - Limited Coverage

The policy applies to direct physical damage to automobiles owned by invitees subject to all of the following:

1. Provided such damage originates from premises owned, managed, leased or rented by an insured;
2. Coverage applies only to invitees of an insured or an insured's tenant;
3. Such damage is directly caused by wind-driven falling trees or tree limbs;
4. The most we will pay for any one loss is the lesser of the actual cash value of the damaged automobile as of the time of the loss; or the cost of repairing or replacing the damaged automobile with another automobile of like

kind and quality; subject to a limit of \$25,000 in any one policy period; and

5. This coverage is not subject to the General Liability General Aggregate Limit.
21. Expected or Intended Injury - Amendment to Exclusion

SECTION 1. - 2. EXCLUSIONS a. Expected or Intended Injury, is replaced by the following:

- a. Expected or Intended Injury

Bodily injury or property damage expected or intended from the standpoint of the insured. This exclusion does not apply to bodily injury or property damage resulting from the use of reasonable force to protect persons or property.

All other terms and conditions of the policy apply.

EMC Planning Group, Inc. - Policy # MZA80267090 - 3/15/10 - 3/15/11

Business Auto Coverage Form - CA 00 01 10 01
Policy Amendment(s) Commercial Business Auto Coverage Form

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words you and your refer to the Named Insured shown in the Declarations. The words we, us and our refer to the Company providing this insurance.

Other words and phrases that appear in boldface have special meaning. Refer to Section V - Definitions.

Section I - Covered Autos

Item Two of the Declarations shows the autos that are covered autos for each of your coverages. The following numerical symbols describe the autos that may be covered autos. The symbols entered next to a coverage on the Declarations designate the only autos that are covered autos.

A. Description of Covered Auto Designation Symbols

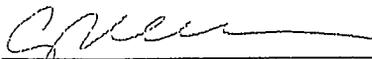
Symbol	Description of Covered Auto Designation Symbols
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1. = ANY AUTO.
2. = OWNED AUTOS ONLY. Only those autos you own (and for Liability Coverage any trailers you don't own while attached to power units you own). This includes those autos you acquire ownership of after the policy begins.
3. = OWNED PRIVATE PASSENGER AUTOS ONLY. Only the private passenger autos you own. This includes those private passenger autos you acquire ownership of after the policy begins.
4. = OWNED AUTOS OTHER THAN PRIVATE PASSENGER AUTOS ONLY. Only

those autos you own that are not of the private passenger type (and for Liability Coverage any trailers you don't own while attached to power units you own). This includes those autos not of the private passenger type you acquire ownership of after the policy begins.

5. = OWNED AUTOS SUBJECT TO NO-FAULT. Only those autos you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those autos you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.
6. = OWNED AUTOS SUBJECT TO A COMPULSORY UNINSURED MOTORISTS LAW. Only those autos you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those autos you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7. = SPECIFICALLY DESCRIBED AUTOS. Only those autos described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any trailers you don't own while attached to any power unit described in Item Three).
8. = HIRED AUTOS ONLY. Only those autos you lease, hire, rent or borrow. This does not include any auto you lease, hire, rent, or borrow from any of your employees, partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

This Form must be attached to Change Endorsement when issued after the policy is written.
One of the Fireman's Fund Insurance Companies as named in the policy



Secretary



President

9. = NONOWNED AUTOS ONLY. Only those autos you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes autos owned by your employees, partners (if you are a partnership), members (if you are a limited liability company), or members of their households but only while used in your business or your personal affairs.

B. Owned Autos You Acquire After the Policy Begins

1. If symbols 1, 2, 3, 4, 5, or 6 are entered next to a coverage in Item Two of the Declarations, then you have coverage for autos that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol 7 is entered next to a coverage in Item Two of the Declarations, an auto you acquire will be a covered auto for that coverage only if:
 - a. We already cover all autos that you own for that coverage or it replaces an auto you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers, Mobile Equipment and Temporary Substitute Autos

If Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered autos for Liability Coverage:

1. Trailers with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. Mobile equipment while being carried or towed by a covered auto.
3. Any auto you do not own while used with the permission of its owner as a temporary substitute for a covered auto you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;

- d. Loss; or
- e. Destruction.

Section II - Liability Coverage

A. Coverage

We will pay all sums an insured legally must pay as damages because of bodily injury or property damage to which this insurance applies, caused by an accident and resulting from the ownership, maintenance or use of a covered auto.

We will also pay all sums an insured legally must pay as a covered pollution cost or expense to which this insurance applies, caused by an accident and resulting from the ownership, maintenance or use of covered autos. However, we will only pay for the covered pollution cost or expense if there is either bodily injury or property damage to which this insurance applies that is caused by the same accident.

We have the right and duty to defend any insured against a suit asking for such damages or a covered pollution cost or expense. However, we have no duty to defend any insured against a suit seeking damages for bodily injury or property damage or a covered pollution cost or expense to which this insurance does not apply. We may investigate and settle any claim or suit as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is an Insured

The following are insureds:

- a. You for any covered auto.
- b. Anyone else while using with your permission a covered auto you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered auto. This exception does not apply if the covered auto is a trailer connected to a covered auto you own.
 - (2) Your employee if the covered auto is owned by that employee or a member of his or her household.

(3) Someone using a covered auto while he or she is working in a business of selling, servicing, repairing, parking or storing autos unless that business is yours.

(4) Anyone other than your employees, partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their employees, while moving property to or from a covered auto.

(5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a covered auto owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an insured described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

In addition to the Limit of Insurance, we will pay for the insured:

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an accident we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any suit against the insured we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All costs taxed against the insured in any suit against the insured we defend.
- (6) All interest on the full amount of any judgment that accrues after

entry of the judgment in any suit against the insured we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

b. Out-of-State Coverage Extensions

While a covered auto is away from the state where it is licensed we will:

(1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered auto is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered auto is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected or Intended Injury

Bodily injury or property damage expected or intended from the standpoint of the insured.

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an insured contract provided the bodily injury or property damage occurs subsequent to the execution of the contract or agreement; or

- b. That the insured would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the insured or the insured's insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification and Employer's Liability

Bodily injury to:

- a. An employee of the insured arising out of and in the course of:
 - (1) Employment by the insured; or
 - (2) Performing the duties related to the conduct of the insured's business; or
- b. The spouse, child, parent, brother or sister of that employee as a consequence of Paragraph a. above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to bodily injury to domestic employees not entitled to workers' compensation benefits or to liability assumed by the insured under an insured contract. For the purposes of the Coverage Form, a domestic employee is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

Bodily injury to any fellow employee of the insured arising out of and in the course of the fellow employee's employment or while performing duties related to the conduct of your business.

6. Care, Custody or Control

Property damage to or covered pollution cost or expense involving property owned or transported by the insured or in the insured's care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling of Property

Bodily injury or property damage resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the insured for movement into or onto the covered auto; or
- b. After it is moved from the covered auto to the place where it is finally delivered by the insured.

8. Movement of Property by Mechanical Device

Bodily injury or property damage resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered auto.

9. Operations

Bodily injury or property damage arising out of the operations of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of mobile equipment.

10. Completed Operations

Bodily injury or property damage arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraphs a. or b. above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed.
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
- (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. Pollution

Bodily injury or property damage arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered auto;
 - (2) Otherwise in the course of transit by or on behalf of the insured; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered auto;
- b. Before the pollutants or any property in which the pollutants are contained are moved from the place where they are accepted by the insured for movement into or onto the covered auto; or
- c. After the pollutants or any property in which the pollutants are contained are moved from the covered auto to the place where they are finally delivered, disposed of or abandoned by the insured.

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar pollutants that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered auto or its parts, if:

- (1) The pollutants escape, seep, migrate, or are discharged, dispersed or released directly from an auto part designed by its manufacturer to hold, store, receive or dispose of such pollutants; and
- (2) The bodily injury, property damage or covered pollution cost or expense does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of mobile equipment.

Paragraphs b. and c. above of this exclusion do not apply to accidents that occur away from premises owned by or rented to an insured with respect to pollutants not in or upon a covered auto if:

- (1) The pollutants or any property in which the pollutants are contained are upset, overturned or damaged as a result of the maintenance or use of a covered auto; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the pollutants is caused directly by such upset, overturn or damage.

12. War

Bodily injury or property damage due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

13. Racing

Covered autos while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered auto is being prepared for such a contest or activity.

C. Limit of Insurance

Regardless of the number of covered autos, insureds, premiums paid, claims made or vehicles involved in the accident, the most we will pay for the total of all damages and covered pollution cost or expense combined, resulting from any one accident is the Limit of Insurance for Liability Coverage shown in the Declarations.

All bodily injury, property damage and covered pollution cost or expense resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one accident.

No one will be entitled to receive duplicate payments for the same elements of loss under this Coverage Form and any Medical Payments Coverage Endorsement, Uninsured Motorists Coverage Endorsement or Underinsured Motorists Coverage Endorsement attached to this Coverage Part.

Section III - Physical Damage Coverage

A. Coverage

1. We will pay for loss to a covered auto or its equipment under:

- a. Comprehensive Coverage

From any cause except:

- (1) The covered auto's collision with another object; or
- (2) The covered auto's overturn.

- b. Specified Causes of Loss Coverage

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or
- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered auto.

- c. Collision Coverage

Caused by:

- (1) The covered auto's collision with another object; or
- (2) The covered auto's overturn.

2. Towing

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered auto of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage - Hitting a Bird or Animal - Falling Objects or Missiles

If you carry Comprehensive Coverage for the damaged covered auto, we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
 - b. Loss caused by hitting a bird or animal; and
 - c. Loss caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered auto's collision or overturn considered a loss under Collision Coverage.

4. Coverage Extensions

- a. Transportation Expenses

We will pay up to \$20 per day to a maximum of \$600 for temporary transportation expense incurred by you because of the total theft of a covered auto of the private passenger type. We will pay only for those covered autos for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered auto is returned to use or we pay for its loss.

b. Loss of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an insured becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered auto;
- (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered auto; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered auto.

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

B. Exclusions

1. We will not pay for loss caused by or resulting from any of the following. Such loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.
 - a. Nuclear Hazard
 - (1) The explosion of any weapon employing atomic fission or fusion; or
 - (2) Nuclear reaction or radiation, or radioactive contamination, however caused.
 - b. War or Military Action
 - (1) War, including undeclared or civil war;
 - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for loss to any covered auto while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for loss to any covered auto while that covered auto is being prepared for such a contest or activity.
3. We will not pay for loss caused by or resulting from any of the following unless caused by other loss that is covered by this insurance:
 - a. Wear and tear, freezing, mechanical or electrical breakdown.
 - b. Blowouts, punctures or other road damage to tires.
4. We will not pay for loss to any of the following:
 - a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
 - b. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.
 - c. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
 - d. Any accessories used with the electronic equipment described in Paragraph c. above.

Exclusions 4.c. and 4.d. do not apply to:

- a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered auto at the time of the loss or such equipment is removable from a

housing unit which is permanently installed in the covered auto at the time of the loss, and such equipment is designed to be solely operated by use of the power from the auto's electrical system, in or upon the covered auto; or

b. Any other electronic equipment that is:

(1) Necessary for the normal operation of the covered auto or the monitoring of the covered auto's operating system; or

(2) An integral part of the same unit housing any sound reproducing equipment described in a. above and permanently installed in the opening of the dash or console of the covered auto normally used by the manufacturer for installation of a radio.

5. We will not pay for loss to a covered auto due to diminution in value.

C. Limit of Insurance

1. The most we will pay for loss in any one accident is the lesser of:

a. The actual cash value of the damaged or stolen property as of the time of the loss; or

b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.

3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered auto, our obligation to pay for repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to loss caused by fire or lightning.

Section IV - Business Auto Conditions

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal for Physical Damage Loss

If you and we disagree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties in the Event of Accident, Claim, Suit or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

a. In the event of accident, claim, suit or loss, you must give us or our authorized representative prompt notice of the accident or loss. Include:

(1) How, when and where the accident or loss occurred;

(2) The insured's name and address; and

(3) To the extent possible, the names and addresses of any injured persons and witnesses.

b. Additionally, you and any other involved insured must:

(1) Assume no obligation, make no payment or incur no expense without our consent, except at the insured's own cost.

- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or suit.
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the suit.
- (4) Authorize us to obtain medical records or other pertinent information.
- (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is a loss to a covered auto or its equipment you must also do the following:

- (1) Promptly notify the police if the covered auto or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered auto from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
- (3) Permit us to inspect the covered auto and records proving the loss before its repair or disposition.
- (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Liability Coverage, we agree in writing that the insured has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the insured's liability.

4. Loss Payment - Physical Damage Coverages

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the auto from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the loss, our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer of Rights of Recovery Against Others to Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after accident or loss to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or the insured's estate will not relieve us of any obligations under this Coverage Form.

2. Concealment, Misrepresentation or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other insured, at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This Coverage Form;
- b. The covered auto;
- c. Your interest in the covered auto; or
- d. A claim under this Coverage Form.

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide

the additional coverage as of the day the revision is effective in your state.

4. No Benefit to Bailee - Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. Other Insurance

a. For any covered auto you own, this Coverage Form provides primary insurance. For any covered auto you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered auto which is a trailer is connected to another vehicle, the Liability Coverage this Coverage Form provides for the trailer is:

- (1) Excess while it is connected to a motor vehicle you do not own.
- (2) Primary while it is connected to a covered auto you own.

b. For Hired Auto Physical Damage Coverage, any covered auto you lease, hire rent or borrow is deemed to be a covered auto you own. However, any auto that is leased, hired, rented or borrowed with a driver is not a covered auto.

c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Liability Coverage is primary for any liability assumed under an insured contract.

d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. Premium Audit

a. The estimated premium for this Coverage Form is based on the exposures you

told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. Policy Period, Coverage Territory

Under this Coverage Form, we cover accidents and losses occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The coverage territory is:

- a. The United States of America;
- b. The territories and possessions of the United States of America;
- c. Puerto Rico;
- d. Canada; and
- e. Anywhere in the world if:

(1) A covered auto of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and

(2) The insured's responsibility to pay damages is determined in a suit on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico, or Canada or in a settlement we agree to.

We also cover loss to, or accidents involving, a covered auto while being transported between any of these places.

8. Two or More Coverage Forms or Policies Issued by Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same accident, the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

Section V - Definitions

- A. Accident includes continuous or repeated exposure to the same conditions resulting in bodily injury or property damage.
- B. Auto means land motor vehicle, trailer or semi-trailer designed for travel on public roads but does not include mobile equipment.
- C. Bodily injury means bodily injury, sickness or disease sustained by a person including death resulting from any of these.
- D. Covered pollution cost or expense means any cost or expense arising out of:
 - 1. Any request, demand, order or statutory or regulatory requirement; or
 - 2. Any claim or suit by or on behalf of a governmental authority demanding

that the insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

Covered pollution cost or expense does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:

- a. That are, or that are contained in any property that is:

- (1) Being transported or towed by, handled, or handled for movement into, onto, or from the covered auto;
 - (2) Otherwise in the course of transit by, or on behalf of the insured;
 - (3) Being stored, disposed of, treated or processed in or upon the covered auto;
- b. Before the pollutants or any property in which the pollutants are contained are moved from the place where they are accepted by the insured for movement into or onto the covered auto; or
 - c. After the pollutants or any property in which the pollutants are contained are moved from the covered auto to the place where they are finally delivered, disposed of or abandoned by the insured.

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar pollutants that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered auto or its parts, if:

- (1) The pollutants escape, seep, migrate, or are discharged, dispersed or released directly from an auto part designed by its manufacturer to hold, store, receive or dispose of such pollutants; and
- (2) The bodily injury, property damage or covered pollution cost or expense does not arise out of the operation of any equipment listed in Paragraphs 6.b. or 6.c. of the definition of mobile equipment.

Paragraphs b. and c. above do not apply to accidents that occur away from premises owned by or rented to an insured with respect to pollutants not in or upon a covered auto if:

- (1) The pollutants or any property in which the pollutants are contained are upset, overturned or damaged as a result of the maintenance or use of a covered auto; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the pollutants is caused directly by such upset, overturn or damage.

E. Diminution in value means the actual or perceived loss in market value or resale value which results from a direct and accidental loss.

F. Employee includes a leased worker. Employee does not include a temporary worker.

G. Insured means any person or organization qualifying as an insured in the Who Is an Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or suit is brought.

H. Insured contract means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for bodily injury or property damage to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your employees, of any auto. However, such contract or agreement shall not be considered an insured contract to the extent that it obligates you or any of your employees to pay for property damage to any auto rented or leased by you or any of your employees.

An insured contract does not include that part of any contract or agreement:

- a. That indemnifies a railroad for bodily injury or property damage arising out of

construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing; or

- b. That pertains to the loan, lease or rental of an auto to you or any of your employees, if the auto is loaned, leased or rented with a driver; or
- c. That holds a person or organization engaged in the business of transporting property by auto for hire harmless for your use of a covered auto over a route or territory that person or organization is authorized to serve by public authority.

I. Leased worker means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. Leased worker does not include a temporary worker.

J. Loss means direct and accidental loss or damage.

K. Mobile equipment means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers.
5. Vehicles not described in Paragraphs 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

- a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers.
6. Vehicles not described in Paragraphs 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not mobile equipment but will be considered autos:
- a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning;
 - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.
- L. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- M. Property damage means damage to or loss of use of tangible property.
- N. Suit means a civil proceeding in which:
- 1. Damages because of bodily injury or property damage; or
 - 2. A covered pollution cost or expense, to which this insurance applies, are alleged.
- Suit includes:
- a. An arbitration proceeding in which such damages or covered pollution costs or expenses are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages or covered pollution costs or expenses are claimed and to which the insured submits with our consent.
- O. Temporary worker means a person who is furnished to you to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.
- P. Trailer includes semitrailer.

EMC Planning Group, Inc. - MZA80267090 - 3/15/10 - 3/15/11

FleetCover® Endorsement- CA 70 18 10 01
Policy Amendment(s) Commercial Business Auto Coverage Form - Truckers Coverage Form

A. Broadened Named Insured

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:

Any organization you own on the inception of this policy, or newly acquire or form during the policy period, and over which you maintain during the policy period, majority ownership or majority interest will qualify as a Named Insured if:

- (1) There is no other similar insurance available to that organization; and
- (2) The first Named Insured shown in the Declarations of this policy has the responsibility of placing insurance for that organization; and
- (3) The organization is incorporated or organized under the laws of the United States of America.

However:

- (a) Coverage under this provision is afforded only until the next occurring 12 month anniversary of the beginning of the policy period shown in the Declarations, or the end of the policy period, whichever is earlier; and
- (b) Coverage under this provision does not apply to bodily injury or property damage that results from an accident that occurred before you acquired or formed the organization; and
- (c) No person or organization is an insured with respect to any current or past partnership, or joint venture that is not shown as a Named Insured in the Declarations; and
- (d) Coverage under A.(1), (2) and (3) above does not apply to any organization that is covered

as an insured under any other automobile liability insurance policy whose limits of insurance have been exhausted or whose insurer has become insolvent.

B. Broadened Who Is an Insured

1. Form CA0001 (if attached to this policy), SECTION II - LIABILITY COVERAGE, 1. Who Is An Insured, item b.(2) is deleted, and d. is added as follows:

d. Your employee while using his owned auto, or an auto owned by a member of his or her household, in your business or your personal affairs, provided you do not own, hire or borrow that auto.

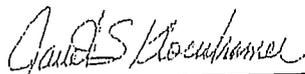
2. Form CA0012 (if attached to this policy), SECTION II - LIABILITY COVERAGE, 1. Who Is An Insured, item b.(2) is deleted, and f. is added as follows:

f. Your employee or agent while using his owned private passenger type auto, or a private passenger type auto owned by a member of his or her household, in your business or personal affairs, provided you do not own, hire, or borrow that auto.

C. Additional Insured Coverage and Waiver of Subrogation

1. Form CA0001 (if attached to this policy), SECTION II - LIABILITY COVERAGE, 1. Who Is An Insured, the following is added as item e.; and form CA0012 (if attached to this policy), SECTION II - LIABILITY COVERAGE, 1. Who Is An Insured; the following is added as item g.:

This Form must be attached to Change Endorsement when issued after the policy is written.
One of the Fireman's Fund Insurance Companies as named in the policy



Secretary



President

Any person or organization with respect to the operation, maintenance, or use, of a covered auto, provided that you and such person or organization have agreed under an expressed provision in a written insured contract or written agreement, or a written permit issued to you by a governmental or public authority, to add such person, organization, or governmental or public authority to this policy as an insured.

However, such person or organization is an insured:

- (1) Only with respect to the operation, maintenance, or use, of a covered auto; and
- (2) Only for bodily injury or property damage caused by an accident which takes place after:
 - (a) You executed the insured contract or written agreement; or
 - (b) The permit has been issued to you.

2. Form CA0001 (if attached to this policy), SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, item 5.; and form CA0012 (if attached to this policy), SECTION V - TRUCKERS CONDITIONS, A. Loss Conditions, item 5.; the following is added:

Waiver of Subrogation

If required by a:

- a. Written insured contract or written agreement executed prior to the accident; or
- b. Written permit issued to you by a governmental or public authority prior to the accident;

we waive any right of recovery we may have against any person or organization named in such contract, agreement or permit, because of payments we make for injury or damage arising out of a covered auto.

D. Auto Medical Payments - Increased Limit

For each covered auto described in the Declarations or shown in the Schedule as having Auto

Medical Payments Coverage, the Medical Payments Limit of Insurance for those autos is revised to the greater of:

1. \$5,000; or
2. The limit shown in the Declarations

E. Hired Auto Physical Damage Coverage

If PHYSICAL DAMAGE COVERAGE is provided by this policy on your owned covered autos, the following applies:

Any auto that you lease, hire, rent or borrow without a driver, will be covered under this policy for PHYSICAL DAMAGE COVERAGE. However any such auto:

1. Will be covered only for the same PHYSICAL DAMAGE COVERAGE that applies to your owned covered autos;
2. Will be subject to the same applicable deductible shown in the Declarations that applies to your most similar owned covered auto, except any Comprehensive Coverage deductible does not apply to loss caused by fire or lightning; and
3. The most we will pay for any one loss in any one accident is the lesser of the following:
 - a. Actual Cash Value of the damaged or stolen property as of the time of the loss as determined by us; or
 - b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

In addition, we will pay costs and fees associated with such covered loss only for a maximum time period of seven days beginning with the date of loss, subject to a maximum of \$500.

However:

1. If form CA0001 is attached to this policy, this coverage does not apply to autos you lease, hire, rent or borrow from any of your employees, partners (if you are a partnership), members (if you are a limited liability company) or members of their households; and
2. If form CA0012 is attached to this policy, this coverage does not apply to any private

passenger type auto you lease, hire, rent or borrow from any member of your household, any of your employees, partners (if you are a partnership), members (if you are a limited liability company), or agents or members of their households.

F. Communication Equipment Coverage

1. Form CA0001 (if attached to this policy), SECTION III - PHYSICAL DAMAGE COVERAGE, B. Exclusions, item 4., the following is added:

Exclusions 4.c. and 4.d. do not apply to electronic equipment that is permanently installed in the covered auto at the time of the loss or such equipment which is removable from a housing unit which is permanently installed in the covered auto at the time of the loss, and such equipment is designed to be solely operated by use of power from the auto's electrical system in or upon the covered auto. This coverage also applies to antennas and other accessories necessary for the use of the electronic equipment. However, the most we will pay for loss is \$1,500 and no deductible applies to this coverage.

2. Form CA0012 (if attached to this policy), SECTION IV - PHYSICAL DAMAGE COVERAGE, B. Exclusions, Item 2., the following is added:

Exclusions 4.e. and 4.f. do not apply to electronic equipment that is permanently installed in the covered auto at the time of the loss or such equipment which is removable from a housing unit which is permanently installed in the covered auto at the time of the loss, and such equipment is designed to be solely operated by use of power from the auto's electrical system in or upon the covered auto. This coverage also applies to antennas and other accessories necessary for the use of the electronic equipment. However, the most we will pay for loss is \$1,500 and no deductible applies to this coverage.

G. Tapes and Compact Discs Coverage

- A. Under Comprehensive Coverage, we will pay for loss to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the

tapes, records, discs or other similar audio, visual or data electronic devices:

1. Are your property, or that of a family member; and
2. Are in a covered auto at the time of a loss.

B. The most we will pay for loss is \$250.

- C. PHYSICAL DAMAGE COVERAGE provisions apply to this coverage, except that no deductible applies.

H. Airbag Coverage

1. Form CA0001 (if attached to this policy), SECTION III - PHYSICAL DAMAGE COVERAGE, B. Exclusions, 3.a., the following is added:

However, "mechanical breakdown" does not mean the unintended discharge of an airbag, provided that any loss covered under this provision is excess over any other collectable insurance or warranty designed to cover such unintended discharge.

2. Form CA0012 (if attached to this policy), SECTION IV - PHYSICAL DAMAGE COVERAGE, B. Exclusions, 3.a., the following is added:

However, "mechanical breakdown" does not mean the unintended discharge of an airbag, provided that any loss covered under this provision is excess over any other collectable insurance or warranty designed to cover such unintended discharge.

I. Rental Reimbursement

Form CA0001 (if attached to this policy), SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions; and form CA0012 (if attached to this policy), SECTION IV - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions; item c. is added as follows:

c. Rental Reimbursement or Transportation Expenses

If loss occurs to a covered auto described or designated in the Declarations or Schedule and covered for PHYSICAL DAMAGE

COVERAGE, we will pay for rental expenses for the rental of a similar replacement auto and additional transportation expenses, incurred by you. This payment applies in addition to the otherwise applicable amount of each coverage you have on the covered auto. No deductible applies to this coverage. However:

- (1) We will pay only for those expenses incurred by you that begin 24 hours after the covered loss.
- (2) We will cease paying for those expenses, regardless of the policy's expiration date, at the earlier of the following dates:
 - (a) The number of days reasonably required to repair or replace the covered auto. If loss is caused by theft, this number of days is added to the number of days it takes to locate and return the covered auto to you; or
 - (b) 45 days from the date this coverage begins.
- (3) Our payment is limited to the lesser of the following amounts:
 - (a) Necessary and actual expenses incurred by you; or
 - (b) \$1,500.
- (4) This coverage does not apply while there are spare or reserve autos available to you for your operations.
- (5) If loss results from the total theft of a covered private passenger type auto (if CA0012 is attached to this policy), or a covered private passenger auto (if CA0001 is attached to this policy), we will pay under this coverage only that amount of your covered rental expenses or additional transportation expenses which are not already provided for under the PHYSICAL DAMAGE COVERAGE Extensions.

J. Extended Towing Coverage

1. Form CA0001 (if attached to this policy), SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 2. Towing, is replaced by the following:

2. Extended Towing

We will pay up to \$750 per disablement for towing and labor costs you incur each time your covered auto is disabled. However:

- a. All labor must be performed at the place of disablement; and
- b. If the covered auto is of the private passenger type no deductible applies; and
- c. If the covered auto is not of the private passenger type our obligation to pay will be reduced by a \$250 deductible per disablement.

2. Form CA0012 (if attached to this policy), SECTION IV - PHYSICAL DAMAGE COVERAGE, A. Coverage, 2. Towing - Private Passenger Autos, is replaced by the following:

2. Extended Towing

We will pay up to \$750 per disablement for towing and labor costs you incur each time your covered auto is disabled. However:

- a. All labor must be performed at the place of disablement; and
- b. If the covered auto is of the private passenger type no deductible applies; and
- c. If the covered auto is not of the private passenger type our obligation to pay will be reduced by a \$250 deductible per disablement.

K. Cancellation - 120 Days Notice

If we cancel this policy for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured at the last mailing address known to us, written notice of cancellation at least 120 days prior to the effective date of cancellation.

L. Supplementary Payments - Increased Limits

SECTION II - LIABILITY COVERAGE, 2. Coverage Extensions, a. Supplementary Payments, items (2) and (4) are replaced by the following:

- (2) Up to \$2,500 for the cost of bail bonds (including bonds for related traffic law violations) required because of an accident we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including substantiated loss of earnings up to \$500 a day, because of time off from work.

M. Duties in the Event of Accident, Claim, Suit or Loss - Amended

Form CA0001 (if attached to this policy) SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, item 2. a.; and form CA0012 (if attached to this policy) SECTION V - TRUCKERS CONDITIONS, A. Loss Conditions, item 2. a.; is replaced by the following:

- a. In the event of accident, claim, suit or loss, you must promptly notify us or our authorized representative when it becomes known to:
 - (1) You, if you are an individual;
 - (2) Your partner or member, if you are a partnership or joint venture;
 - (3) Your member, if you are a limited liability company;
 - (4) Your executive officer if you are an organization other than a partnership, joint venture or limited liability company; or
 - (5) Your authorized representative or insurance manager.

Knowledge of an accident, claim, suit or loss by other persons does not imply that the persons listed above have such knowledge.

Notice should include:

- (1) How, when and where the accident or loss occurred; and
- (2) The insured's name and address; and
- (3) To the extent possible, the names and address of any injured persons and witnesses.

N. Unintentional Failure to Disclose Hazards

Form CA0001 (if attached to this policy), SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, item 2.; and form CA0012

(if attached to this policy), SECTION V - TRUCKERS CONDITIONS, B. General Conditions, item 2.; the following is added:

However, if you unintentionally fail to disclose any hazards existing at the inception date of this policy, we will not deny coverage under this Coverage Form because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

O. Fellow Employee Coverage

Section II - Liability Coverage, B. Exclusions, 5. Fellow Employee, the following is added:

However, this exclusion does not apply if the bodily injury results from the use of a covered auto you own or hire, and provided that any coverage under this provision only applies in excess over any other collectable insurance.

P. Limited Mexico Coverage

WARNING

AUTO ACCIDENTS IN MEXICO ARE SUBJECT TO THE LAWS OF MEXICO ONLY - NOT THE LAWS OF THE UNITED STATES OF AMERICA. THE REPUBLIC OF MEXICO CONSIDERS ANY AUTO ACCIDENT A CRIMINAL OFFENSE AS WELL AS A CIVIL MATTER.

IN SOME CASES THE COVERAGE PROVIDED HERE MAY NOT BE RECOGNIZED BY THE MEXICAN AUTHORITIES AND WE MAY NOT BE ALLOWED TO IMPLEMENT THIS COVERAGE AT ALL IN MEXICO. YOU SHOULD CONSIDER PURCHASING AUTO COVERAGE FROM A LICENSED MEXICAN INSURANCE COMPANY BEFORE DRIVING IN MEXICO.

THIS ENDORSEMENT DOES NOT APPLY TO ACCIDENTS OR LOSSES WHICH OCCUR OUTSIDE OF 25 MILES FROM THE BOUNDARY OF THE UNITED STATES OF AMERICA.

Form CA0001 (if attached to this policy), SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, item 7.; and form CA0012 (if attached to this policy), SECTION V - TRUCKERS CONDITIONS, B. General Conditions, item 7.; the following is added:

The coverage territory is extended to include Mexico, but only:

- a. For accidents or losses occurring within 25 miles of the United States border; and
- b. For trips into Mexico of 10 days or less; and
- c. If the covered auto is principally garaged and principally used in the United States; and
- d. If the insured is a resident of the United States.

If a loss to a covered auto occurs in Mexico, we pay for such loss in the United States. If the covered auto must be repaired in Mexico in order to be driven, we will not pay for more than the actual cash value of such loss as determined by us at the nearest United States point where the repairs can be made.

Any insurance provided under this provision will be excess over any other collectible insurance.

Q. Extended Glass Coverage

Form CA0001 (if attached to this policy), SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, item 3.a.; and form CA0012 (if attached to this policy), SECTION IV - PHYSICAL DAMAGE COVERAGE, A. Coverage, item 3.a.; is replaced by the following:

- a. Glass breakage. If glass must be replaced, the deductible will be \$100 or the deductible shown in the Declarations, whichever is less. If glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

R. Broadened Definition of Bodily Injury

Form CA0001 (if attached to this policy), SECTION V - DEFINITIONS, item C.; and Form CA0012 (if attached to this policy), SECTION VI - DEFINITIONS, item C.; is replaced by the following:

- C. Bodily Injury means bodily injury, sickness or disease sustained by a person including death or mental anguish resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

S. Customer Lease or Loan Physical Damage Coverage Extension

Form CA0001 (if attached to this policy), SECTION III - PHYSICAL DAMAGE COVERAGE, C. Limit Of Insurance; and form CA0012 (if attached to this policy), SECTION IV - PHYSICAL DAMAGE COVERAGE, C. Limits Of Insurance; item 4. is added as follows:

4. If your covered owned auto is:
 - (1) Shown in the Schedule and designated as covered for Physical Damage Coverage; and
 - (2) Shown in this policy as having a loss payee or additional-insured-lessor; and
 - (3) Incurs a covered total loss;

we will pay the greater of:

- (a) The actual cash value, as determined by us, of the damaged or stolen property as of the time of the total loss; or
- (b) The outstanding indebtedness under the initial finance agreement for the covered auto and its equipment.

As used here, outstanding indebtedness means the amount you owe on the finance agreement at the time of total loss:

- (i) Less any amounts representing taxes, overdue payments, penalties, interest, or charges resulting from overdue payments, additional mileage, excess wear and tear, or lease termination fees; and
- (ii) Less any administrative costs or overhead fees assessed by the finance company who has leased the covered auto to you; and
- (iii) Less security deposits not returned by the lessor; and
- (iv) Less costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (v) Less carry-over balances from previous loans or leases.

**AMENDMENT NO. 1
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS AMENDMENT NO. 1 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, 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; and

WHEREAS, the Agreement term began on May 4, 2010 but authorization to proceed was not provided to the CONTRACTOR until February 2011 due to delays in obtaining approval of the Agreement by PROJECT APPLICANTS; and

WHEREAS, the Moss Landing Community Plan Update EIR has not been completed and additional time is required to account for time expended for approval of the Agreement during the initial term of the Agreement; and

WHEREAS, the parties wish to amend the Agreement to extend the term to May 31, 2012 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 associated with the completion of the Moss Landing Community Plan Update EIR.

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

Amendment No. 1 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, 2012
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, 2012, 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 the second sentence of Paragraph 6. a., "Funding Procedures for CONTRACTOR'S Base Budget, Project Contingency, and COUNTY Deposit", to read as follows:

This first deposit shall be made with COUNTY Planning Department upon approval of this AGREEMENT by the Monterey County Board of Supervisors, scheduled on January 11, 2011.

3. Amend the second sentence of Paragraph 6. b., "Funding Procedures for CONTRACTOR'S Base Budget, Project Contingency, and COUNTY Deposit", to read as follows:

This second deposit shall be made with COUNTY Planning Department prior to the issuance of the Draft EIR, currently scheduled for August 1, 2011.

4. Amend the second sentence of Paragraph 6. c., "Funding Procedures for CONTRACTOR'S Base Budget, Project Contingency, and COUNTY Deposit", to read as follows:

This third deposit shall be made with COUNTY Planning Department prior to the issuance of the Final EIR, currently scheduled for October 1, 2011.

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

AGREEMENT shall become effective May 4, 2010 and continue through May 31, 2012, unless terminated pursuant to Paragraph 10 or amended pursuant to Paragraph 14 of AGREEMENT.

6. Amend Paragraph 10, "Termination", to read as follows:

AGREEMENT shall terminate on May 31, 2012, but may be terminated earlier by PROJECT APPLICANTS or COUNTY, by giving thirty (30) days' written notice to the other.

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

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

Amendment No. 1 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, 2012
Not to Exceed: \$334,466.50

IN WITNESS WHEREOF, the PROJECT APPLICANTS and County hereto have executed this Amendment No. 1 to the Funding Agreement as of the day and year written below:

THE COUNTY OF MONTEREY

By: *McMinn*
Director of Planning

Date: 5/31/11

PROJECT APPLICANT*

Elkhorn Slough Foundation

By: *Steven J. Dennis*
(Signature)

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

Date: May 24, 2011

By: *Steven F. Green*
(Signature)

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

Date: MAY 24, 2011

Approved as to Form and Legality
Office of the County Counsel

By: *Christina P. Olson*
Deputy County Counsel

Date: 5-31-11

*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.

Amendment No. 1 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, 2012
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Hamlin Properties, LLC

✓ By:

Nathan A. Sawyer
(Signature)

Its:

Nathan A. Sawyer, Member
(Print Name and Title)

✓ Date:

5/26/11

By:

Kim Solano
(Signature)

Its:

Kim Solano, Member
(Print Name and Title)

Date:

5/26/11

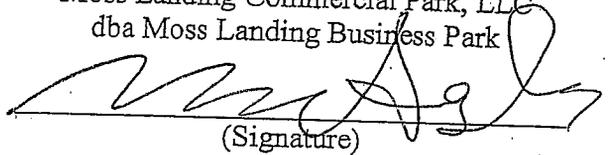
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Amendment No. 1 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning Department
Term: May 4, 2010 – May 31, 2012
Not to Exceed: \$334,466.50

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:

5-31-11

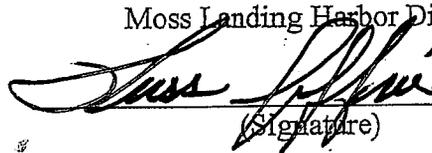
*INSTRUCTIONS: IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth in the Agreement together with the signatures of two specified officers. If APPLICANT is a partnership, the name of the partnership shall be 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.

Amendment No. 1 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, 2012
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Moss Landing Harbor District

By:


(Signature)

Its:

Russ Jeffries, Board President
(Print Name and Title)

Date:

5-23-11

By:


(Signature)

Its:

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

Date:

5-23-11

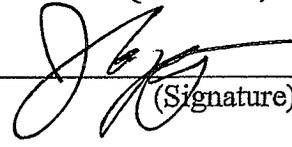
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Amendment No. 1 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning Department
Term: May 4, 2010 - May 31, 2012
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Quin Delta, LLC

By: _____


(Signature)

Its: _____

John Gregg, Manager
(Print Name and Title)

Date: _____

5/25/2011

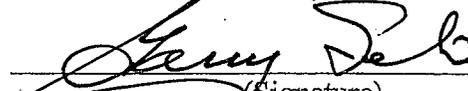
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Amendment No. 1 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning Department
Term: May 4, 2010 – May 31, 2012
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

San Jose State University Research Foundation

By:


(Signature)

Gerry Selter

Its:

~~Don Kassing, President and Board Chair~~
SJSURF

(Print Name and Title)

Date:

5-26-11

By:


(Signature)

Mary Sidney, COO and Secretary of the
Board SJSURF

(Print Name and Title)

Date:

5-26-11

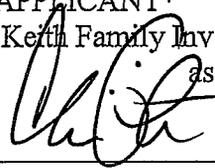
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Amendment No. 1 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning Department
Term: May 4, 2010 - May 31, 2012
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Keith Family Investments, LLC and/or
assignee

By: _____



(Signature)

Its: _____

Chris Keith, Managing Partner

(Print Name and Title)

Date: _____

5/19/11

*INSTRUCTIONS: IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

Amendment No. 1 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, 2012
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

By: Phil DiGirolamo
(Signature)

Its: Phil DiGirolamo, Owner
(Print Name and Title)

Date: 5/21/11

*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.

Amendment No. 1 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, 2012
Not to Exceed: \$334,466.50

**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.

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

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

THE COUNTY OF MONTEREY

By: *[Signature]*
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. Sean*
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.

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

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

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: _____

*INSTRUCTIONS: IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

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

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

*INSTRUCTIONS: IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

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

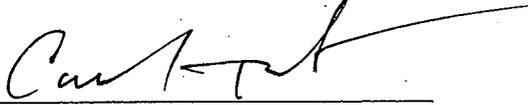
PROJECT APPLICANT*

Monterey Bay Aquarium Research Institute

By: 
(Signature)

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

Date: May 21, 2012

By: 
(Signature)

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

Date: 5/21/12

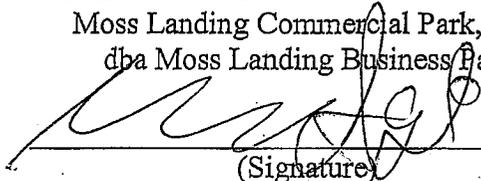
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Amendment No. 2 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning Department
Term: May 4, 2010 - May 31, 2013
Not to Exceed: \$334,466.50

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

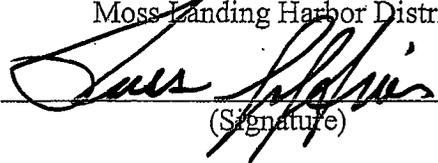
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Amendment No. 2 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning Department
Term: May 4, 2010 – May 31, 2013
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Moss Landing Harbor District

By:


(Signature)

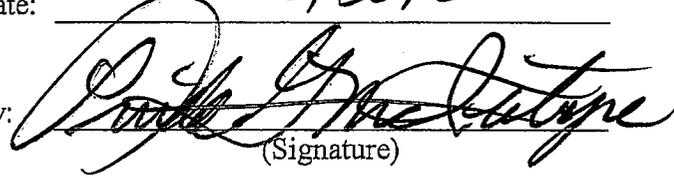
Its:

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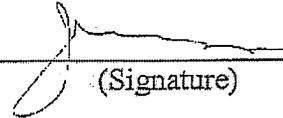
Amendment No. 2 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA -- Planning Department
Term: May 4, 2010 -- May 31, 2013
Not to Exceed: \$334,466.50



PROJECT APPLICANT*

Quin Delta, LLC

By:



(Signature)

Its:

John Gregg, Manager

(Print Name and Title)

Date:

5/23/2012

*INSTRUCTIONS: IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

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

PROJECT APPLICANT*

San Jose State University Research Foundation

By: Pamela C. Stacks
(Signature)

Its: Pamela C. Stacks, Vice President
~~Gerry Sellar, 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

*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.

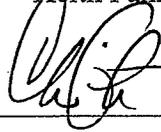
Amendment No. 2 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning Department

Term: May 4, 2010 - May 31, 2013
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Keith Family Investments, LLC and/or
assignee

By:



(Signature)

Its:

Chris Keith, Managing Partner

(Print Name and Title)

Date:

5/23/12

*INSTRUCTIONS: IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

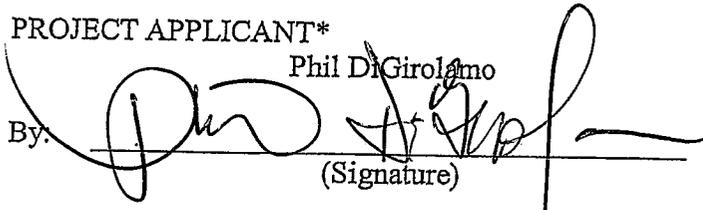
Amendment No. 2 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning Department

Term: May 4, 2010 - May 31, 2013

Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Phil DiGirolamo

By: 

(Signature)

Its:

Phil DiGirolamo, Owner

(Print Name and Title)

Date:

5/73/12

*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.

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

**AMENDMENT NO. 3
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS AMENDMENT NO. 3 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") 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"); and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), and June 4, 2012 (hereinafter, "Amendment No. 2"); and

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR's analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2014 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 and as amended by this Amendment No. 3.

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

Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2014
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, 2014, 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, 2014, 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, 2014, 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. 3 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2014
Not to Exceed: \$334,466.50

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 3 to the Funding Agreement as of the last date opposite the respective signatures below:

THE COUNTY OF MONTEREY

By: *ML*
Director of Planning

Date: 5/29/13

PROJECT APPLICANT*

Elkhorn Slough Foundation

By: *Steven J. Dennis*
(Signature)

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

Date: May 15, 2013

By: *Steven F Green*
(Signature)

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

Date: 5/13/13

Approved as to Form and Legality
Office of the County Counsel

By: *Mary Sue Perry*
Deputy County Counsel

Date: May 28, 2013

*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.

Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2014
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Hamlin Properties, LLC

By:

Nathan A. Sawyer
(Signature)

Its:

Nathan A. Sawyer, Member
(Print Name and Title)

Date:

5/7/13

By:

Kim Solano
(Signature)

Its:

Kim Solano, Member
(Print Name and Title)

Date:

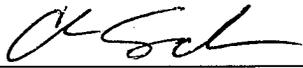
5/7/13

*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.

Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2014
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Monterey Bay Aquarium Research Institute

By: 
(Signature)

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

Date: April 22, 2013

By: 
(Signature)

Its: JAMES R. RENKOFF, ACTING CFO
~~C. Michael Pinto, CFO~~
(Print Name and Title)

Date: 4/23/2013

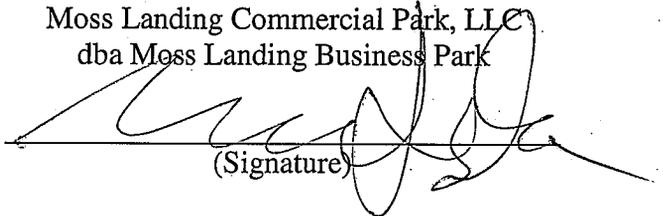
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Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2014
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Moss Landing Commercial Park, LLC
dba Moss Landing Business Park

By:

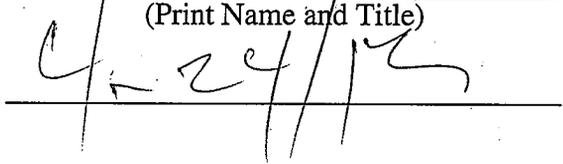

(Signature)

Its:

Nader Agha, Managing Partner / Member

(Print Name and Title)

Date:

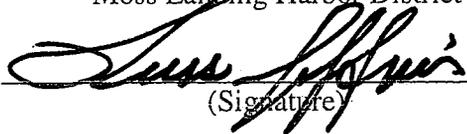

4-24-14

*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.

Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2014
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Moss Landing Harbor District

By: 
(Signature)

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

Date: 4/24/13

By: 
(Signature)

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

Date: 4.22.13

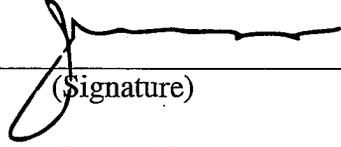
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Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2014
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Quin Delta, LLC

By: _____



(Signature)

Its: _____

John Gregg, Manager
(Print Name and Title)

Date: _____

4/23/13

*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.

Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2014
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

San Jose State University Research Foundation

By:



(Signature)

Its:

Pamela C. Stacks, Vice President, SJSURF

(Print Name and Title)

Date:

4/24/13

By:



(Signature)

Its:

Jerri Carmo, Interim
~~Mary Sidney~~, COO and Secretary of the
Board SJSURF

(Print Name and Title)

Date:

4/24/13

*INSTRUCTIONS: IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2014
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Keith Family Investments, LLC and/or
assignee

By:



(Signature)

Its:

Chris Keith, Managing Partner

(Print Name and Title)

Date:

4/23/13

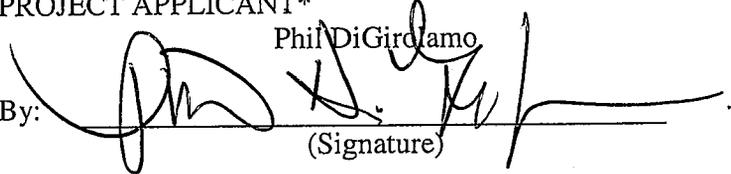
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Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2014
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Phil DiGirolamo

By:


(Signature)

Its:

Phil DiGirolamo, Owner

(Print Name and Title)

Date:

4/26/13

[Faint, illegible text, possibly a stamp or bleed-through]

***INSTRUCTIONS:** IF APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

Amendment No. 3 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2014
Not to Exceed: \$334,466.50

**AMENDMENT NO. 4
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS AMENDMENT NO. 4 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 "Parties") 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"); and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), June 4, 2012 (hereinafter, "Amendment No. 2"), and May 29, 2013 (hereinafter, "Amendment No. 3"); and

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR's analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2015 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 and as amended by this Amendment No. 4.

Amendment No. 4 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2015
Not to Exceed: \$334,466.50

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, 2015, 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, 2015, 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, 2015, but may be terminated earlier by PROJECT APPLICANTS or COUNTY, by giving thirty (30) days' written notice to the other.

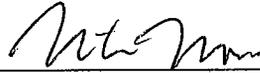
4. All other terms and conditions of the Agreement remain unchanged and in full force.

5. This Amendment No. 4 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 4 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2015
Not to Exceed: \$334,466.50

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 4 to the Agreement as of the last date opposite the respective signatures below:

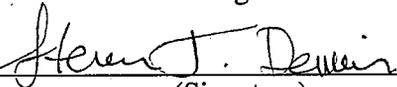
THE COUNTY OF MONTEREY

By: 
Director of Planning

Date: 6/2/14

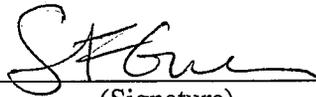
PROJECT APPLICANT*

Elkhorn Slough Foundation

By: 
(Signature)

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

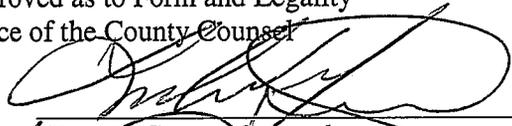
Date: 5/23/14

By: 
(Signature)

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

Date: 5/23/14

Approved as to Form and Legality
Office of the County Counsel

By: 
Deputy County Counsel

Date: 5/30/14

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Amendment No. 4 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2015
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Hamlin Properties, LLC

By: n/a
(Signature)

Its: Nathan A. Sawyer, Member
(Print Name and Title)

Date: _____

By: Kim Solano
(Signature)

Its: Kim Solano, Member
(Print Name and Title)

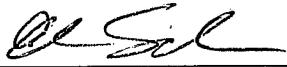
Managing Partner
Date: 4/22/14

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Amendment No. 4 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2015
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Monterey Bay Aquarium Research Institute

By: 
(Signature)

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

Date: 4/25/14

By: 
(Signature)

Its: C. Michael Pinto, CFO
(Print Name and Title)

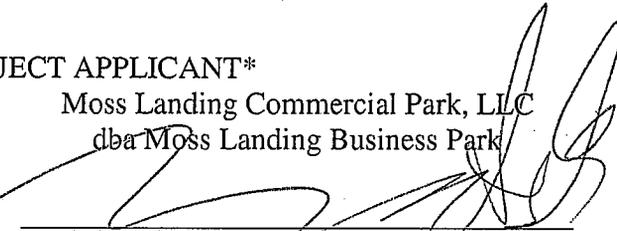
Date: 4/21/14

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Amendment No. 4 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2015
Not to Exceed: \$334,466.50

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: 5/27/14

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Term: May 4, 2010 – May 31, 2015
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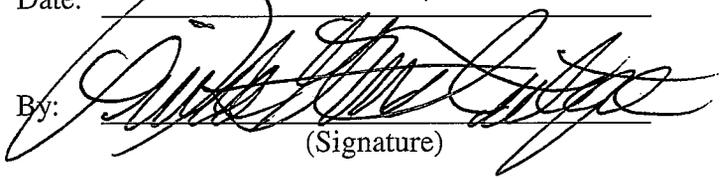
PROJECT APPLICANT*

Moss Landing Harbor District

By: 
(Signature)

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

Date: 5-28-14

By: 
(Signature)

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

Date: 5-28-14

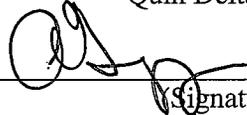
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Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2015
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Quin Delta, LLC

By: _____



(Signature)

Its: _____

ANDREW GREGG, GENERAL COUNSEL

John Gregg, Manager

(Print Name and Title)

Date: _____

5/1/14

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Amendment No. 4 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2015
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

San Jose State University Research Foundation

By: Pamela C Stacks
(Signature)

Its: Pamela C. Stacks, Vice President, SJSURF
(Print Name and Title)

Date: 4/29/2014

By: Pamela C Stacks
(Signature)

Its: Pamela C. Stacks, Interim COO and Secretary
of the Board, SJSURF
(Print Name and Title)

Date: 4/28/2014
PCS

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Amendment No. 4 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2015
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

Keith Family Investments, LLC and/or
assignee

By:



(Signature)

Its:

Chris Keith, Managing Partner

(Print Name and Title)

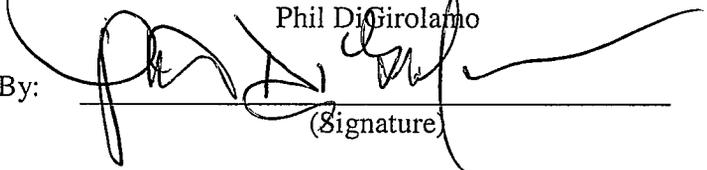
Date:

4/18/14

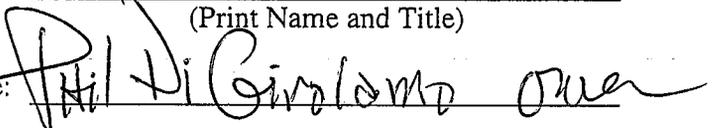
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Amendment No. 4 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2015
Not to Exceed: \$334,466.50

PROJECT APPLICANT*

By: 
Phil DiGirolamo
(Signature)

Its: Phil DiGirolamo, Owner
(Print Name and Title)

Date: 

April 24, 2014

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Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2015
Not to Exceed: \$334,466.50

Elkhorn Slough

AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT

4/28/15
(Date)
HJD/SC
(Applicant's Initials)

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; ~~Hamilton-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") 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"); and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), and June 2, 2014 (hereinafter, "Amendment No. 4"); and

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR to continue analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 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 and as amended by this Amendment No. 5.

Haute

**AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

4/26/2015
(Date)

KS
(Applicant's Initials)

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; Hamlin-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") as of the last date opposite the respective signatures below.

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

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WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 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 and as amended by this Amendment No. 5.

MBARI

**AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

4/23/17
(Date)

AG CS
(Applicant's Initials)

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; Hamlin-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") 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"); and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), and June 2, 2014 (hereinafter, "Amendment No. 4"); and

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR to continue analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 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 and as amended by this Amendment No. 5.

INADER ABHA

**AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

5/31/14
(Date)

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; ~~Hamlin-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") as of the last date opposite the respective signatures below.

ABHA
(Applicant's Initials)

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"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), and June 2, 2014 (hereinafter, "Amendment No. 4"); and

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR to continue analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

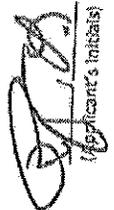
WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 with no associated dollar amount increase to continue to allow funding by the PROJECT APPLICANTS to the County for costs incurred by CONTRACTOR and County Departments to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 5.

ML Harbor Dist.

AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT

5/10/15
5/15
(Date)

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; ~~Hannin-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") as of the last date opposite the respective signatures below.


(Applicant's Initials)

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"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), and June 2, 2014 (hereinafter, "Amendment No. 4"); and

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

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR to continue analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 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 and as amended by this Amendment No. 5.

Quinn
Delta

**AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; ~~Hamm-Haute~~ Properties, LLC; Monterey Bay Aquarium Research Institute; Moss Landing Commercial Park, LLC dba Moss Landing Business Park; Moss Landing Harbor District; Quinn 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") as of the last date opposite the respective signatures below.

5/11/16
(Date)


(Applicant's initials)

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"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), and June 2, 2014 (hereinafter, "Amendment No. 4"); and

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR to continue analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 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 and as amended by this Amendment No. 5.

SJSU/MLML

AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT

5/5/2015
(Date)

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; Hamlin-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") as of the last date opposite the respective signatures below.

PCS
(Applicant's Initials)

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WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), and June 2, 2014 (hereinafter, "Amendment No. 4"); and

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR to continue analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 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 and as amended by this Amendment No. 5.

Kevin Davelop

AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT

4/29/15
(Date)

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; Hamlin-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") as of the last date opposite the respective signatures below.

oo
(Applicant's initials)

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WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), and June 2, 2014 (hereinafter, "Amendment No. 4"); and

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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, additional time is necessary to allow for the CONTRACTOR to continue analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 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 and as amended by this Amendment No. 5.

Phil DiGirolamo

**AMENDMENT NO. 5
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

5/21/15
(Date)

P.D.
(Applicant's Initials)

THIS AMENDMENT NO. 5 to the Funding Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Elkhorn Slough Foundation; ~~Hammill-Haute~~ Hammill-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") 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"); and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), and June 2, 2014 (hereinafter, "Amendment No. 4"); and

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

WHEREAS, additional time is necessary to allow for the CONTRACTOR to continue analysis of compiled information for preparation of the Draft EIR and completion of the EIR for the PROJECT; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to May 31, 2017 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 and as amended by this Amendment No. 5.

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, 2017, 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, 2017, unless terminated pursuant to Paragraph 10 or amended pursuant to Paragraph 14 of AGREEMENT.

3. Amend Paragraph 10, "Termination", to read as follows:

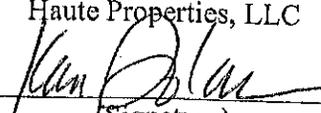
AGREEMENT shall terminate on May 31, 2017, but may be terminated earlier by PROJECT APPLICANTS or COUNTY, by giving thirty (30) days' written notice to the other.

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

PROJECT APPLICANT*

Haute Properties, LLC

By:



(Signature)

Its:

Kim Solano, Owner

(Print Name and Title)

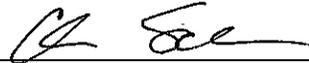
Date:

4/28/15

*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 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*

Monterey Bay Aquarium Research Institute

By: 
(Signature)

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

Date: 4/16/15

By: 
(Signature)

Its: C. Michael Pinto, CFO
(Print Name and Title)

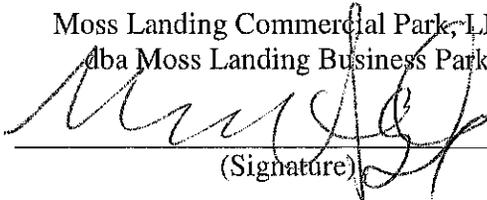
Date: 4/16/15

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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)

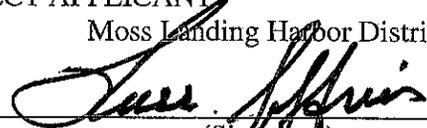
Date: May 15, 2015

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PROJECT APPLICANT*

Moss Landing Harbor District

By:


(Signature)

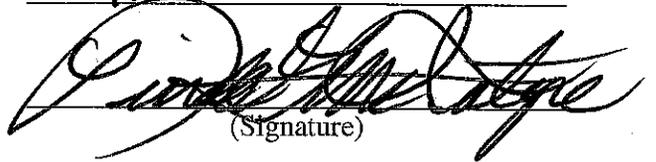
Its:

Russ Jeffries, Board President
(Print Name and Title)

Date:

4.22.15

By:


(Signature)

Its:

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

Date:

4.22.15

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PROJECT APPLICANT*

Quin Delta, LLC

By:


(Signature)

Its:

John Gregg, Manager
(Print Name and Title)

Date:

5/11/15

*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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*

San Jose State University Research Foundation

By: Pamela C Stacks
(Signature)

Its: Pamela C. Stacks, Vice President, SJSURF
(Print Name and Title)

Date: May 5, 2015

By: Pamela C Stacks
(Signature)

Its: Pamela C. Stacks, Interim COO
and Secretary of the Board, SJSURF
(Print Name and Title)

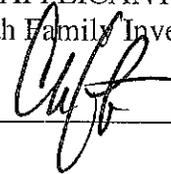
Date: May 5, 2015

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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:

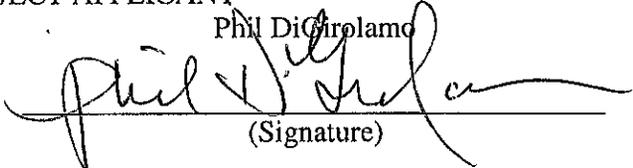
4/17/15

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PROJECT APPLICANT*

Phil DiGirolamo

By:


(Signature)

Its:

Phil DiGirolamo, Owner

(Print Name and Title)

Date:

4-28-16

*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.



Monterey County

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

Board Order

Agreement No.: A-11914 & A-11927

Upon motion of Supervisor Armenta, seconded by Supervisor Parker and carried by those members present, the Board of Supervisors hereby:

- a. Approved Amendment No. 6 to Professional Services Agreement No. A-11914 with EMC Planning Group, Inc. (EMC) where the Base budget is increased by \$69,448 to \$324,434 and the Contingency budget is unchanged at \$45,014, for a total amount not to exceed \$369,448 to complete a County-funded Corridor Traffic Study and revise the impact analysis contained in the Environmental Impact Report (EIR) for the Moss Landing Community Plan Update EIR (PD080541) in Moss Landing, for a term through May 31, 2017;
- b. Approved Amendment No. 6 to Funding Agreement No. A-11927 with various Project Applicants where the Project Applicants' portion of the Base budget, Contingency budget and Deposits for County Staff services is unchanged at a total amount not to exceed \$334,467, and the County's portion of the Base budget is increased by \$69,448 to \$139,121, for a total overall budget not to exceed amount of \$473,588 to allow funding by Monterey County for costs incurred by EMC to complete a County-funded Corridor Traffic Study and revise the impact analysis contained in the EIR for the Moss Landing Community Plan Update EIR (PD080541) in Moss Landing, for a term through May 31, 2017; and
- c. Authorized the Director of Planning to execute Amendment No. 6 to Professional Services Agreement No. A-11914, Amendment No. 6 to Funding Agreement No. A-11927 and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.

(REF150043/EMC Planning Group, Inc. - PD080541/Environmental Impact Report (EIR) for the Moss Landing Community Plan Update, in Moss Landing)

PASSED AND ADOPTED on this 21st day of July 2015, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, 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 78 for the meeting on July 21, 2015.

Dated: July 29, 2015
File ID: A 15-250

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**AMENDMENT NO. 6
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS AMENDMENT NO. 6 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"); and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), June 4, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), June 2, 2014 (hereinafter, "Amendment No. 4"), and May 26, 2015 (hereinafter, Amendment No. 5"); and

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, 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 implementation of the Moss Landing Community Plan Update; 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 Moss Landing Project; and

WHEREAS, data collected by the CONTRACTOR for the completion of the Corridor Traffic Study may, as time allows, be incorporated into the Final 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 increase the amount by \$69,448.00 to allow County funding for costs incurred by CONTRACTOR to complete the Corridor Traffic Study and revise the impact analysis for the Draft EIR for completion of the PROJECT as identified in the Agreement and as amended by this Amendment No. 6.

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 County of Monterey, Resource Management Agency (RMA), Director of Planning, hereinafter, "DIRECTOR", in conjunction with the RMA - Public Works, and PROJECT APPLICANTS 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" and "1A", 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:

COUNTY and PROJECT APPLICANTS hereby agree that COUNTY shall engage CONTRACTOR to provide the services set forth in Exhibits "1" and "1A" of this AGREEMENT.

3. Add Paragraph I to "Recitals", as follows:

COUNTY and PROJECT APPLICANTS acknowledge that the County of Monterey, RMA - Planning will fund the CONTRACTOR's Base budget as set forth in Exhibit "1A" 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 \$69,448.00, for a total amount not to exceed \$473,588.00:

CONTRACTOR's Base Budget:	\$254,986.00
COUNTY Deposit (based on time and materials):	\$ 53,140.00
COUNTY Deposit: (based on percentage of CONTRACTOR's Base Budget and Project Contingency):	\$ 51,000.00
Project Contingency:	\$ 45,014.00
CONTRACTOR's Base Budget (based on Amendment No. 6):	\$ 69,448.00
<u>Maximum Budget Under AGREEMENT:</u>	<u>\$473,588.00</u>

5. Amend the first sentence 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" and "1A".

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

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 6 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: MLM
Director of Planning

Date: 2/31/15

PROJECT APPLICANTS*

Elkhorn Slough Foundation

By: Judith Connor
(Signature)

Its: Judith Connor, Vice President
(Print Name and Title)

Date: June 15, 2015

By: Robert Hartmann
(Signature)

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

Date: 6/15/15

Approved as to Form and Legality
Office of the County Counsel

By: [Signature]
Deputy County Counsel

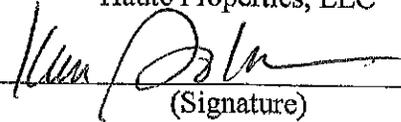
Date: 7-8-15

*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
(Print Name and Title)

Date:

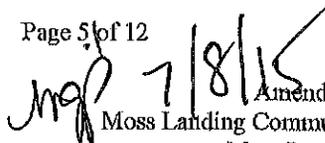
6/10/15

(See page 5.2)



*(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 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.

Page 5 of 12



Amendment No. 6 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning

Term: May 4, 2010 - May 31, 2017

Not to Exceed: \$334,466.50

Not to Exceed (Overall Amount): 473,588.00

PROJECT APPLICANT*

Haute Properties, LLC

By:

Kim Solano
(Signature)

Its:

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

Date:

6/10/15

KS
Project Applicant's Initials

7/1/15
Date

*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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 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.

msp 7/18/15

PROJECT APPLICANT*

Monterey Bay Aquarium Research Institute

By: 
(Signature)

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

Date: June 9, 2015

By: 
(Signature)

Its: C. Michael Pinto, CFO
(Print Name and Title)

Date: 6/9/15

*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*

Moss Landing Commercial Park, LLC
dba Moss Landing Business Park

By:


(Signature)

Its:

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

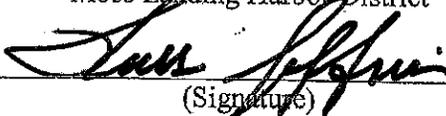
Date:

6-26-15

*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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*

Moss Landing Harbor District

By: 
(Signature)

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

Date: 6.24.15

By: 
(Signature)

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

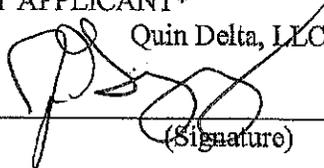
Date: 6.24.15

*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*

Quin Delta, LLC

By:



(Signature)

Its:

John Gregg, Manager
(Print Name and Title)

Date:

6/22/15

*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*

San Jose State University Research Foundation

By: Pamela C Stacks
(Signature)

Its: Pamela C. Stacks, Vice President, SJSURF
(Print Name and Title)

Date: June 11, 2015

By: Pamela C Stacks
(Signature)

Its: Pamela C. Stacks, Interim COO
and Secretary of the Board, SJSURF
(Print Name and Title)

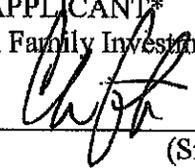
Date: June 11, 2015

*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*

Keith Family Investments, LLC and/or assignee

By:



(Signature)

Its:

Chris Keith, Managing Partner

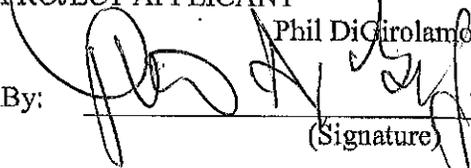
(Print Name and Title)

Date:

6/9/15

*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*

By:  Phil DiGirolamo
(Signature)

Its: Phil DiGirolamo, Owner
(Print Name and Title)

Date: June 16, 2015

*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.

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**

**AMENDMENT NO. 6
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
EMC PLANNING GROUP, INC.**

THIS AMENDMENT NO. 6 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"); and

WHEREAS, Agreement was amended by the Parties on May 31, 2011 (hereinafter, "Amendment No. 1"), June 5, 2012 (hereinafter, "Amendment No. 2"), May 29, 2013 (hereinafter, "Amendment No. 3"), June 2, 2014 (hereinafter, "Amendment No. 4"), and May 26, 2015 (hereinafter, "Amendment No. 5"); and

WHEREAS, the Environmental Impact Report (EIR) has not been completed for the Moss Landing Community Plan Update (hereinafter, "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 implementation of the Moss Landing Community Plan Update; 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 savings measure, County will further engage CONTRACTOR to complete the Corridor Traffic Study as well as the revised impact analysis for the Moss Landing Project; and

WHEREAS, data collected by the CONTRACTOR for the completion of the Corridor Traffic Study may, as time allows, be incorporated into the Final 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 increase the amount by \$69,448.00 to complete the Corridor Traffic Study and revise the impact analysis for the Draft EIR for completion of the PROJECT as identified in the Agreement and as amended by this Amendment No. 6.

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 and A-1** in conformity with the terms of this Agreement.

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

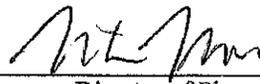
County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A and A-1**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$369,448.00.

3. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-1, Scope of Services/Payment Provisions".
4. All other terms and conditions of the Agreement remain unchanged and in full force.
5. This Amendment No. 6 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
6. The recitals to this Amendment No. 6 are incorporated into the Agreement and this Amendment No. 6.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 6 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

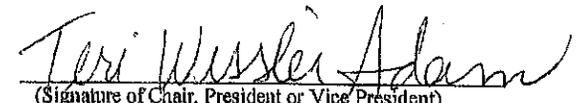
COUNTY OF MONTEREY

CONTRACTOR*

By: 
Director of Planning

EMC Planning Group, Inc.
Contractor's Business Name

Date: 7/31/15

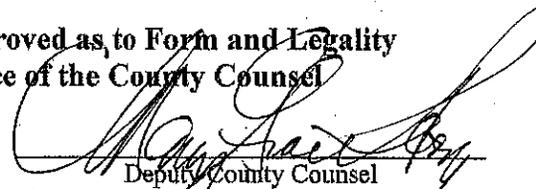
By: 
(Signature of Chair, President or Vice President)

Its: Teri Wissler Adam, Vice President
(Print Name and Title)

Date: June 9, 2015

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

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

By: 
Deputy County Counsel

Its: Teri Wissler Adam, Secretary
(Print Name and Title)

Date: 6-30-15

Date: June 9, 2015

Approved as to Fiscal Provisions

By: 
CHIEF DEPUTY Auditor/Controller

Date: 6/16/15

Approved as to Indemnity and Insurance Provisions

By: _____
Risk Management

Date: _____

*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the 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.

EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between
County of Monterey, Resource Management Agency – Planning,
hereinafter referred to as “County”

and

EMC Planning Group, Inc., hereinafter referred to as “CONTRACTOR”

A. SCOPE OF SERVICES

CONTRACTOR will provide a Corridor Traffic Study and a revised impact analysis for the Moss Landing Community Plan Update Environmental Impact Report (EIR) to reflect changes in build-out capacity of the Community Plan.

- A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Weekend Traffic Counts:

Conduct one (1) day of weekend peak period traffic counts (11:00 a.m. to 3:00 p.m.) to support possible analysis of weekend traffic in Moss Landing. Advise whether an analysis of weekend traffic is justified for the Moss Landing Community Plan Update EIR.

Cost: \$2,500

Weekend Traffic Analysis (Optional Task):

After weekend traffic counts are concluded, a need to analyze weekend traffic for the Moss Landing Community Plan Update EIR may be required. Once a determination of the need for the analysis is made, CONTRACTOR shall prepare the analysis of weekend traffic to be included in the Moss Landing Community Plan Update EIR being prepared to support the adoption of the Moss Landing Community Plan.

Optional services described above shall not be provided unless authorized in writing by the County's Project Planner prior to optional services being provided.

Cost: \$4,500

Traffic Report:

Prepare a Corridor Traffic Study for the portion of State Route 1 from Jetty Road to just south of Potrero Road, and update the traffic impact analysis related to the Community Plan build-out, and to separate out Phase III projects from the Existing Plus Monterey Bay Aquarium Research Institute (MBARI) scenario.

Cost: \$50,000

Noise Report:

Review of revised traffic report, re-calculation of traffic noise exposures, and revision of report.

Cost: \$1,000

EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Water Supply:

Review the County's revised water use numbers and update the prior work product as a water supply evaluation.

Cost: \$2,760

CalEEMod Air Quality and Greenhouse Gas Emission Modeling:

Update CalEEMod computer modeling. New Community Plan development assumptions will be entered in the CalEEMod air and greenhouse gas emissions modeling program and provide new emission data generated as a .pdf file for County use. The MBARI model run will be revised to remove Phase III components, consistent with the traffic report. This work will be conducted by CONTRACTOR.

Cost: \$2,500

Sub-Consultant Overhead:

A five percent (5%) sub-consultant overhead will be charged to administer contracts, coordinate work, review work products, and for communication with sub-consultants.

Cost: \$2,688

Excess Administrative Costs through May 31, 2017:

Additional administrative costs will be accrued and are expected to be incurred through May 31, 2017 in accordance with the Agreement.

Cost: \$3,500

A.2 CONTRACTOR shall produce the following deliverables as indicated below:

Report Preparation:

For all tasks involving revised reports or data, CONTRACTOR will provide the revised reports and/or data outputs in electronic format (.pdf and/or Microsoft Word) to the County to allow the County to make revision to the proof Draft EIR. All information will be forwarded to the following individual:

Martin Carver, AICP
Management Specialist
County of Monterey, Resource Management Agency – Planning
168 West Alisal Street, 2nd Floor
Salinas, CA 93901
Email: carverm@co.monterey.ca.us
Telephone: (831) 796-6049

EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

B. PAYMENT PROVISIONS

B.1 COMPENSATION/PAYMENT

County shall pay an amount not to exceed \$69,448 for the performance of all things necessary for or incidental to the performance of work as set forth in Exhibit A-1, Scope of Services/Payment Provisions. CONTRACTOR's compensation for services rendered shall be based on the following costs:

Cost	
Task	Task Total
Weekend Traffic Counts	\$ 2,500
Weekend Traffic Analysis (Optional)	\$ 4,500
Traffic Report	\$ 50,000
Noise Report	\$ 1,000
Water Supply	\$ 2,760
CalEEMod Air Quality and Greenhouse Gas Emission Modeling	\$ 2,500
Sub-Consultant Overhead	\$ 2,688
Excess Administrative Costs	\$ 3,500
Grand Total:	\$ 69,448

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-1 - 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*

<i>This Invoice:</i>	\$ 2,500.00	<i>Weekend Traffic Counts</i>	_____
	\$ 4,500.00	<i>Weekend Traffic Analysis (Optional)</i>	_____
	\$ 50,000.00	<i>Traffic Report</i>	_____
	\$ 1,000.00	<i>Noise Report</i>	_____
	\$ 2,760.00	<i>Water Supply</i>	_____
	\$ 2,500.00	<i>CalEEMod Air Quality and Greenhouse Gas Emission Modeling</i>	_____
	\$ 2,688.00	<i>Sub-Consultant Overhead</i>	_____
	\$ 3,500.00	<i>Excess Administrative Costs</i>	_____
Total:			\$69,448.00

Remaining Balance \$ _____

Approved as to Work/Payment: _____ Date: _____
Martin Carver, Management Specialist

All Invoices Are To Be Sent To:
Diana Lemos, Account Clerk
County of Monterey Resource Management Agency - Planning
168 West Alisal Street, 2nd Floor, Salinas, CA 93901
Telephone: (831) 755-5220

2. Invoice Detail

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

**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.

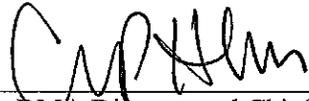
4. Amend the “TO COUNTY” section of Paragraph 23, “**Notices**”, to read as follows:

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.

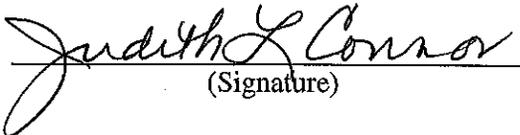
COUNTY OF MONTEREY

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

*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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 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.

Amendment No. 7 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA - Planning
Term: May 4, 2010 - May 31, 2018
Not to Exceed: \$334,466.50
Not to Exceed (Overall Amount): 473,588.00

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

*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.

Amendment No. 7 to Funding Agreement
Moss Landing Community Plan Update EIR Participants
Moss Landing Community Plan Update EIR
RMA – Planning
Term: May 4, 2010 – May 31, 2018
Not to Exceed: \$334,466.50
Not to Exceed (Overall Amount): 473,588.00

PROJECT APPLICANT*

**Moss Landing Commercial Park, LLC
dba Moss Landing Business Park**

By:


(Signature)

Its:

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

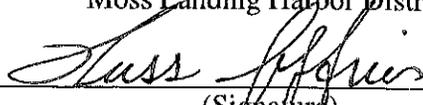
Date:

4-7-17

*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth 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.

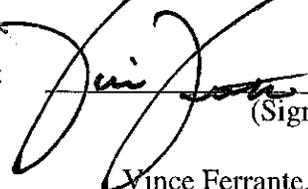
PROJECT APPLICANT*

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)

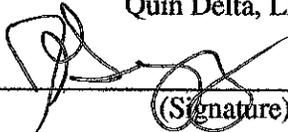
Date: 4.26.17

*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*

Quin Delta, LLC

By:



(Signature)

Its:

John Gregg, Manager

(Print Name and Title)

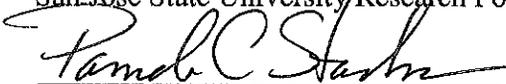
Date:

4/30/17

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PROJECT APPLICANT*

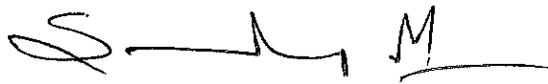
San Jose State University Research Foundation

By:  4/12/17
(Signature)

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

(Print Name and Title)

Date: _____

By: 
(Signature)

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

(Print Name and Title)

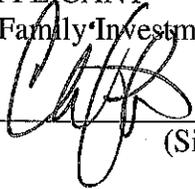
Date: 4/12/17

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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: _____

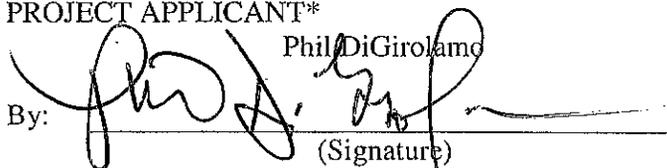
4/12/17

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PROJECT APPLICANT*

Phil DiGirolamo

By:


(Signature)

Its:

Phil DiGirolamo, Owner
(Print Name and Title)

Date:

4/9/17

*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.



Monterey County Board of Supervisors

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

Board Order

Agreement No. A-11914; A-11927

Upon motion of Supervisor Salinas, seconded by Supervisor Alejo and carried by those members present, the Board of Supervisors hereby:

- a. Approved Amendment No. 8 to Professional Services Agreement No. A-11914 with EMC Planning Group, Inc. (EMC) where the Base budget in the amount of \$324,434 is increased by \$91,500 to \$415,934 and the Contingency budget in the amount \$45,014 is unchanged which increases the not to exceed amount of \$369,448 by \$91,500 to a total amount not to exceed \$460,948 to allow for additional services associated with existing tasks to complete the Environmental Impact Report (EIR) for the Moss Landing Community Plan Update (PD080541) in Moss Landing, and extend the expiration date from May 31, 2018 for four (4) additional months through September 30, 2018, for a revised term from May 4, 2010 to September 30, 2018; and
- b. Approved Amendment No. 8 to Funding Agreement No. A-11927 with various Project Applicants where the Project Applicants' portion of the Base budget, Contingency budget and Deposits for County Staff services at a total not to exceed amount of \$334,466 is unchanged, and the County's portion of the Base budget in the amount of \$139,122 is increased by \$91,500 to \$230,622, for a total amount not to exceed of \$565,088, to allow funding by Monterey County for costs incurred by EMC to allow for additional services associated with existing tasks to complete the EIR for the Moss Landing Community Plan Update (PD080541) in Moss Landing, and extend the expiration date from May 31, 2018 for four (4) additional months through September 30, 2018, for a revised term from May 4, 2010 to September 30, 2018; and
- c. Authorized the Chief of Planning Services to execute Amendment No. 8 to Professional Services Agreement No. A-11914, Amendment No. 8 to Funding Agreement No. A-11927 and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.

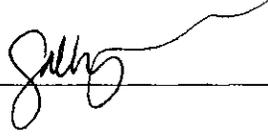
PASSED AND ADOPTED this 7th day of November 2017, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams
NOES: None
ABSENT: None

I, Gail T. Borkowski, 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 80 for the meeting November 7, 2017.

Dated: December 4, 2017
File ID: 17-1108

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By  _____ Deputy

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

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:

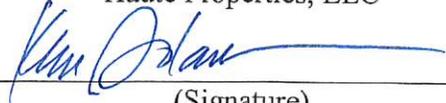
Jacqueline R. Onciano
Chief of Planning Services
County of Monterey
Resource Management Agency – Land Use and Community Development
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

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.

PROJECT APPLICANT*

Haute Properties, LLC

By:



(Signature)

Its:

Kim Solano, Owner, Managing Member

(Print Name and Title)

Date:

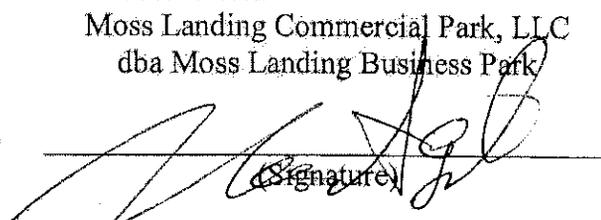
9/20/17

*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 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:

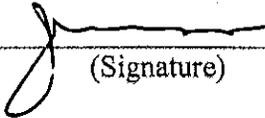
10.26.17

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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:

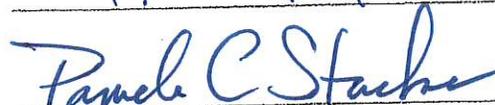
Interim Exec. Director & Secretary of the Board, SJSURF

(Print Name and Title)

Date:

9/26/17

By:



(Signature)

Pamela C. Stacks, AVP of Research, SJSU &

Its:

Vice President of the Board, SJSURF

(Print Name and Title)

Date:

9/27/2017

*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*

Keith Family Investments, LLC and/or assignee

By:



(Signature)

Its:

Chris Keith, Managing Partner

(Print Name and Title)

Date:

9/27/17

*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*

By: Phil DiGirolamo
(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**

**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:

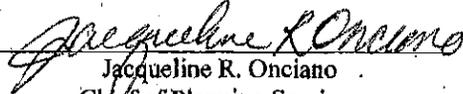
The term of this Agreement is from May 4, 2010 to September 30, 2018, unless sooner terminated pursuant to the terms of this Agreement.
4. Amend Paragraph 4, "**Additional Provisions/Exhibits**", by adding "Exhibit A-2, Scope of Services/Payment Provisions".
5. The "Schedule" referenced in the Agreement, 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, 2nd Floor, Salinas, California, 93901, is hereby replaced with 1441 Schilling Place, South 2nd 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.

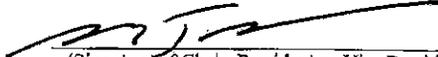
COUNTY OF MONTEREY

CONTRACTOR*

By: 
Jacqueline R. Onciano
Chief of Planning Services

EMC Planning Group, Inc.
Contractor's Business Name

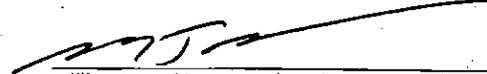
Date: 11 Dec 2017

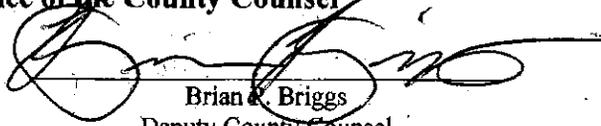
By: 
(Signature of Chair, President or Vice President)

Its: Michael J. Groves, President
(Print Name and Title)

Date: September 28, 2017

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

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

By: 
Brian R. Briggs
Deputy County Counsel

Its: Michael J. Groves, Treasurer
(Print Name and Title)

Date: 10-26-17

Date: September 28, 2017

Approved as to Fiscal Provisions

By: 
Auditor/Controller

Date: 10-27-17

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 2nd Floor, Salinas, California 93901-4527
Email: 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
Total	\$83,550.00
Optional Tasks	\$7,950.00
GRAND TOTAL	\$91,500.00

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 – No Request – received with CA#6 dated 6/9/2015	\$0.00
Total	\$10,500.00

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

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

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

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

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

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

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

The following table provides a summary of Optional Tasks.

<u>Summary of Optional Tasks</u>	
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
Total	\$7,950.00

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:		Task 1: Administration/Management	
	\$ 10,500.00	Administrative Time (Past)	_____
	\$ 9,000.00	Administrative Time (Future)	_____
		Task 3: Prepare Complete and Detailed Project Description	
	\$ 8,400.00	3.3 Past Changes to the Project Description	_____
		Task 5: Prepare Technical Studies	
		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	_____
		Task 7: Proof Draft EIR	
		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 2nd 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	SC Budget	Approved Budget	Principal Planner	Senior Planner	Assistant Planner	Production	Administrative	Total Hour	Total Cost			
Building Basis (Per Hour)	\$255.00	\$200.00	\$150.00	\$125.00	\$100.00	\$75.00	\$75.00					
Task 1: Administration FY 2011-12, 12-13, 14-15	10	31	0	0	0	0	0	47	\$19,400.00			
Task 2: Changes to the Project Description	0	0	0	0	0	0	0	0	\$0.00			
Task 3: Water Supply Study Revisions	0	0	0	0	0	0	0	0	\$0.00			
Task 4: Work to Date on Second Flood Draft	0	0	0	0	0	0	0	0	\$0.00			
Task 5: Second Admin and Final Flood Draft EIRs	0	0	0	0	0	0	0	0	\$0.00			
Task 6: Review current project plans	0	0	0	0	0	0	0	0	\$0.00			
Task 7: Prepare response file	1	0	0	0	0	0	0	1	\$75.00			
Task 8: Adjust EIR project description	0	0	0	0	0	0	0	0	\$0.00			
Task 9: Update NCE references	0	0	0	0	0	0	0	0	\$0.00			
Task 10: Confirm status of the 1984 sewer allocation type	0	0	0	0	0	0	0	0	\$0.00			
Task 11: Update environmental/regulatory settings	0	0	0	0	0	0	0	0	\$0.00			
Task 12: Review/adjust EIR analysis	3	40	0	0	0	0	0	43	\$3,007.50			
Task 13: Update greenhouse gas emissions section	1	30	0	0	0	0	0	31	\$2,325.00			
Task 14: Confirm approach on water/water	0	0	0	0	0	0	0	0	\$0.00			
Task 15: Update the transportation section	0	0	0	0	0	0	0	0	\$0.00			
Task 16: Update alternatives section	0	0	0	0	0	0	0	0	\$0.00			
Task 17: Update sources and references	0	0	0	0	0	0	0	0	\$0.00			
Task 18: Update summary	0	0	0	0	0	0	0	0	\$0.00			
Task 19: Meeting with Staff	0	0	0	0	0	0	0	0	\$0.00			
Task 20: Follow-up Site Visit	0	0	0	0	0	0	0	0	\$0.00			
Task 21: Final Flood Draft	2	24	0	0	0	0	0	26	\$1,950.00			
Task 22: Subtotal (Hours)	13	188	0	0	0	0	0	201	\$15,675.00			
Subtotal (Cost)	\$3,055.00	\$24,800.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	201	\$15,675.00			
Additional Costs												
Task 23: Production Costs									\$160.00			
Task 24: Travel Costs									\$100.00			
Task 25: Fees/Ink/Supplies									\$50.00			
Task 26: Miscellaneous									\$100.00			
Task 27: Administrative Overhead 10%									\$35.00			
Task 28: Total									\$345.00			
Subcontractors												
Task 29: Add Subcontractor									\$7,850.00			
Task 30: Hour and Travel									\$9,000.00			
Task 31: Subcontractor Overhead 5%									\$425.00			
Task 32: Total									\$107,140.00			
Total Costs												
Task 33: Optional Tasks									\$1,500.00			
Task 34: CEOA Notice and Circulation									\$4,500.00			
Task 35: CEOA Funding SOC									\$1,900.00			
Task 36: MCEP Committee/Community Meeting (1.mtg)									\$7,950.00			
Task 37: Total									\$15,850.00			
GRAND TOTAL												
									\$17,500.00			

**AMENDMENT NO. 9
TO FUNDING AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
VARIOUS PROJECT APPLICANTS
FOR THE MOSS LANDING COMMUNITY PLAN UPDATE
ENVIRONMENTAL IMPACT REPORT**

THIS AMENDMENT NO. 9 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 not to exceed 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, Agreement was amended by the Parties on December 11, 2017 (hereinafter, "Amendment No. 8", including 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) to extend the term for four (4) additional months through September 30, 2018 and to increase the amount of the Contractor's Base Budget by \$91,500.00 (County funded amount) which resulted in a total of the Maximum Budget Under Agreement not to exceed amount of \$565,088.00; and

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

WHEREAS, additional time is required to allow County staff to revise the Moss Landing Community Plan and to allow Contractor to continue to provide services for completion of the EIR for the Project; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for twenty (20) additional months to May 31, 2020 with no associated dollar amount increase to allow funding for costs incurred by Contractor to continue to provide services identified in the Agreement and as amended by this Amendment No. 9.

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, 2020, 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.

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

AGREEMENT shall become effective May 4, 2010 and continue through May 31, 2020, 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, 2020, 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. 9 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
6. The recitals to this Amendment No. 9 are incorporated into the Agreement and this Amendment No. 9.

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 9 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-Risk Management
Charles J. McKee, County Counsel-Risk Manager

By: _____
Brian P. Briggs
Deputy County Counsel

Date: _____

Approved as to Fiscal Provisions

By: _____
Auditor/Controller

Date: _____

PROJECT APPLICANTS*
Elkhorn Slough Foundation

By: _____
(Signature)

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

Date: 9-5-18

By: _____
(Signature)

Its: _____
Bruce Welden, Secretary
(Print Name and Title)

Date: _____

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 9 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-Risk Management
Charles J. McKee, County Counsel-Risk Manager

By:

Brian P. Briggs
Deputy County Counsel

Date:

Approved as to Fiscal Provisions

By:

Auditor/Controller

Date:

PROJECT APPLICANTS*

Elkhorn Slough Foundation

By:

(Signature)

Its:

Anne Olsen, President
(Print Name and Title)

Date:

By:


(Signature)

Its:

Bruce Welden, Secretary
(Print Name and Title)

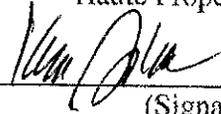
Date:

September 4, 20

PROJECT APPLICANT*

Haute Properties, LLC

By:



(Signature)

Its:

Kim Solano, Owner, Managing Member

(Print Name and Title)

Date:

9/21/14

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PROJECT APPLICANT*

Monterey Bay Aquarium Research Institute

By: 
(Signature)

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

Date: _____

By: 
(Signature)

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

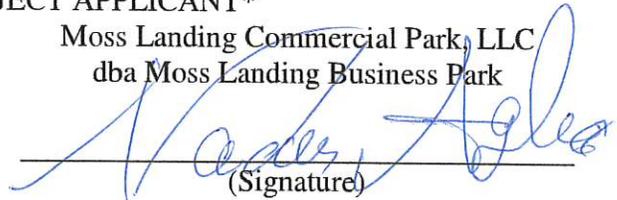
Date: 8-21-18

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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)

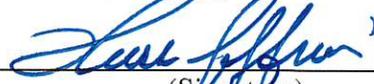
Date: _____

8/27/18

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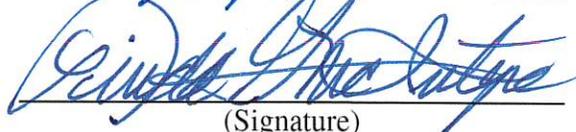
PROJECT APPLICANT*

Moss Landing Harbor District

By: 
(Signature)

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

Date: 9/26/18

By: 
(Signature)

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

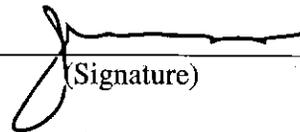
Date: 9.27.18

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PROJECT APPLICANT*

Quin Delta, LLC

By:



(Signature)

Its:

John Gregg, Member

(Print Name and Title)

Date:

9/27/2018

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PROJECT APPLICANT*

San Jose State University Research Foundation

By: Pamela C Stacks
(Signature)

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

Date: 9/12/18

By: [Signature]
(Signature)

Its: Rajesh Prasad,
Interim Executive Director & Secretary of the
Board, SJSURF
(Print Name and Title)

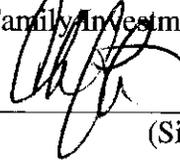
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PROJECT APPLICANT*

Keith Family Investments, LLC and/or assignee

By:



(Signature)

Its:

Chris Keith, Managing Partner

(Print Name and Title)

Date:

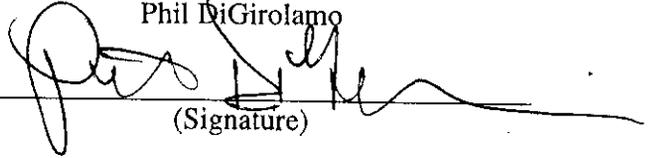
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PROJECT APPLICANT*

Phil DiGirolamo

By:


(Signature)

Its:

Phil DiGirolamo, Owner
(Print Name and Title)

Date:

8/21/18

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