



COUNTY OF HUMBOLDT

AGENDA ITEM NO. **C23**

For the meeting of: January 9, 2018

Date: December 11, 2017

To: Board of Supervisors

From: *(Signature)* Thomas K. Mattson, Public Works Director

Subject: Consultant Services Agreement with Points West Surveying Company Regarding the Provisions of On-Call Professional Land Surveying Services

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the selection of Points West Surveying Company, as the consulting firm to provide on-call professional land surveying services;
2. Approve and authorize the Chair of the Board to execute three (3) original copies of the attached consultant services agreement with Points West Surveying Company regarding the provision of on-call professional land surveying services;
3. Authorize the Public Works Director to execute any and all future task orders issued pursuant to the terms and conditions of the attached consultant services agreement; and
4. Direct the Clerk of the Board to return two (2) executed original copies of the attached consultant services agreement to the Department of Public Works for further processing.

SOURCE OF FUNDING:

Humboldt County Road Fund, Federal Highway Administration ("FHWA") Highway Bridge Program, the Toll Credit Bridge Replacement Fund and FHWA Storm Damage Funds, Federal Emergency Management Agency ("FEMA")

Prepared by Jeff Ball

CAO Approval Karen Clower

REVIEW: Auditor MBM County Counsel SM Personnel \_\_\_\_\_ Risk Manager AKB Other \_\_\_\_\_

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT  
Upon motion of Supervisor Bass Seconded by Supervisor Fennell  
Ayes Bass, Fennell, Sundberg, Bohn, Wilson  
Nays \_\_\_\_\_  
Abstain \_\_\_\_\_  
Absent \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Board Order No. C-13

Meeting of: May 9, 2017

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: 1/9/18  
By: (Signature)  
Kathy Hayes, Clerk of the Board

## DISCUSSION:

On May 9, 2017, Humboldt County Public Works ("Department") issued a Request for Qualification ("RFQ") for the purpose of selecting a qualified consultant to provide the Department's professional land surveying needs. The RFQ followed the selection process set forth in Chapter 10 of the California Department of Transportation's Local Assistance Procedures Manual. The statements of qualifications submitted in response to the RFQ for on-call professional land survey services were evaluated and ranked by the selection committee. The final ranking of the statement of qualifications was issued on June 2, 2017 (Attachment 1).

The Department is now returning to the Board of Supervisors in order to award the attached consultant services agreement to Points West Surveying Company, the highest ranking consultant. The attached consultant services agreement has a term of two (2) years with optional extensions that will not exceed five (5) years. The maximum total amount payable for the services rendered, and costs and expenses incurred, pursuant to the terms and conditions of the attached consultant services agreement shall not exceed Four Hundred Thirty Thousand Dollars (\$430,000.00).

Points West Surveying Company will be asked to provide specified professional land surveying services for specific roadway design and construction projects pursuant to task orders issued under the attached consultant services agreement. A detailed scope of services, project schedule and project budget will be prepared for each task order issued pursuant to the terms and conditions of the attached consultant services agreement. Once a task order has been issued by the county, Points West Surveying Company will be required to perform the agreed upon professional land surveying services within the parameters set forth therein.

Accordingly, the Department recommends that the Board of Supervisors approve and authorize the Chair of the Board to execute, the attached consultant services agreement with Points West Surveying Company regarding the provision of on-call professional land surveying services (Attachment 2). It is also recommended that the Board authorize the Public Works Director to execute any and all task orders issued pursuant to the attached consultant services agreement in order to ensure the efficient delivery of required services.

## FINANCIAL IMPACT:

As noted above, the maximum amount payable for the professional land surveying services rendered, and costs and expenses incurred, pursuant to the terms and conditions of the attached consultant services agreement is not to exceed Four Hundred Thirty Thousand Dollars (\$430,000.00). Funding is dependent on the type of project for which the services are provided. Bridge projects are funded by the FHWA Highway Bridge Program and the Toll Credit Fund. The storm damage and earthquake damage projects are 88.53% funded by FHWA and the remaining 11.47% is funded by the Humboldt County Roads Division. There is no financial commitment until a task order has been issued for a specific roadway design and construction project.

The recommended actions conform to the Board of Supervisors' Core Role of providing for and maintaining infrastructure. This item has no impact on the General Fund.

## OTHER AGENCY INVOLVEMENT:

California Department of Transportation, Federal Highway Administration

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ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may choose not to approve the attached consultant services agreement with Points West Surveying Company regarding the provision of on-call professional land surveying services. However, this alternative is not recommended since the county has limited staff to perform surveying services for upcoming bridge and roadway repair projects.

ATTACHMENTS:

1. Department of Public Works Ranking of the Statement of Qualifications Received in Response to Request for Qualifications No. DPW2017-005 for On-Call Professional Land Surveying Services, dated June 21, 2017
2. Consultant Services Agreement with Points West Surveying Company Regarding the Provision of On-Call Professional Land Surveying Services



**AGREEMENT FOR CONSULTANT SERVICES  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
POINTS WEST SURVEYING COMPANY  
FOR  
ON-CALL PROFESSIONAL LAND SURVEYING SERVICES**

This contract entered into this 9<sup>th</sup> day of January, 2018, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Points West Surveying Company, a California Corporation, hereinafter referred to as "CONSULTANT," is made upon the following considerations:

**RECITALS**

WHEREAS, COUNTY, by and through its Department of Public Works, desires to retain the services of CONSULTANT to assist COUNTY in performing on-call professional land surveying services, which are further described in Attachment A – Scope of Work; and

WHEREAS, such work involves the performance of professional and technical services of a temporary and occasional character, and COUNTY has no employees available to perform such services and is unable to hire employees for the performance thereof for this temporary period; and

WHEREAS, pursuant to Government Code Section 31000, COUNTY may retain independent contractors to perform special services for COUNTY or any department thereof; and

WHEREAS, CONSULTANT represents that it is qualified to perform the duties and services set forth in this contract; and

NOW THEREFORE, the parties hereto mutually agree as follows:

**ARTICLE I – INTRODUCTION**

- A. The Project Manager for CONSULTANT will be David Crivelli. The Contract Administrator for COUNTY will be Tony Seghetti, Deputy Director of Public Works or designee thereof.
- B. The work to be performed under this contract is described in Article II – Statement of Work and the approved CONSULTANT's Cost Proposal dated November 13, 2017. The approved CONSULTANT's Cost Proposal is attached hereto as Attachment B – Cost Proposal and incorporated herein by reference. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take precedence.
- C. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of COUNTY.
- D. Without the written consent of COUNTY, this contract is not assignable by CONSULTANT either in whole or in part.

- E. No alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- F. The consideration to be paid to CONSULTANT as provided herein, shall be compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

## ARTICLE II – STATEMENT OF WORK

The work to be performed under this contract is described in Attachment A – Scope of Work and Attachment B – Cost Proposal.

## ARTICLE III – CONSULTANT'S REPORTS OR MEETINGS

- A. CONSULTANT shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for COUNTY's Contract Administrator or Project Coordinator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with COUNTY's Contract Administrator, as needed, to discuss progress on the contract.

## ARTICLE IV – PERFORMANCE PERIOD

- A. This contract shall go into effect on January 9, 2018, contingent upon approval by COUNTY, and CONSULTANT shall commence work after receiving notification to proceed from COUNTY's Contract Administrator. This contract shall end on January 9, 2020, unless extended by a written amendment hereto.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on COUNTY until the contract is fully executed and approved by COUNTY.
- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this contract, the terms of the contract shall be extended by contract amendment.

## ARTICLE V – ALLOWABLE COSTS AND PAYMENTS

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's Cost Proposal (Attachment A). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the cost proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.

- D. After a project to be performed under this contract is identified by COUNTY, COUNTY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a COUNTY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both COUNTY and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's Cost Proposal.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this contract has been approved by COUNTY, and notification to proceed has been issued by COUNTY's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this contract.
- J. A Task Order is of no force or effect until returned to COUNTY and signed by an authorized representative of COUNTY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by COUNTY.
- K. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by COUNTY's Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number, project title and Task Order number. Credits due COUNTY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this contract. Invoices shall be mailed to COUNTY's Contract Administrator at the following address:

COUNTY: Humboldt County Department of Public Works  
Attention: Tony Seghetti, Contract Administrator  
1106 Second Street  
Eureka, California 95501

- L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Contract.
- M. The total amount payable by COUNTY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by contract amendment.
- N. If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.
- P. The total amount payable by COUNTY for all Task Orders resulting from this contract shall not exceed \$430,000.00. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this contract through Task Orders.

#### ARTICLE VI – TERMINATION

- A. COUNTY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. COUNTY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. If COUNTY terminates this contract, COUNTY shall pay CONSULTANT the sum due under this contract prior to termination, unless the cost of completion to COUNTY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.
- C. The maximum amount for which the COUNTY shall be liable if this contract is terminated is Zero dollars (\$0.00).

#### ARTICLE VII – COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures set forth in Title 48 of the Federal Code of Regulations (CFR), Federal Acquisition Regulations System, Chapter 1, Part 31, Sections 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 23 U.S.C. Section 112; 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; and 23 CFR Part 172, Procurement, Management, and Administration of Engineering and Design Related Services.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under the applicable federal rules and state requirements are subject to repayment by CONSULTANT to COUNTY.
- D. All subcontracts in excess of Twenty-Five Thousand Dollars (\$25,000.00) shall contain all of the provisions of this Article.

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## ARTICLE VIII – RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with California Public Contract Code Sections 10115, et seq. and Title 21 of the California Code of Regulations, Chapter 21, Sections 2500, et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code Section 8546.7; CONSULTANT, subconsultants, and COUNTY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state of California, California State Auditor, COUNTY, Federal Highway Administration (FHWA), or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

## ARTICLE IX – AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by the Humboldt County Auditor-Controller.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by the Humboldt County Auditor-Controller of unresolved audit issues. CONSULTANT's request for review shall be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by COUNTY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.
- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instance of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, approved Cost Proposal, and ICR shall be adjusted by CONSULTANT and approved by COUNTY's Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by COUNTY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

## ARTICLE X – SUBCONTRACTING

- A. Nothing contained in this contract or otherwise, shall create any contractual relationship between COUNTY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to COUNTY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from COUNTY's obligation to make payments to CONSULTANT.

- B. CONSULTANT shall perform the work contemplated herein with resources available within its own organization and no portion of such work shall be subcontracted without written authorization by COUNTY's Contract Administrator, except that, which is identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by COUNTY.
- D. Any substitution of subconsultant(s) must be approved in writing by COUNTY's Contract Administrator prior to the start of work by the subconsultant(s).

#### ARTICLE XI – EQUIPMENT PURCHASE

- A. Prior authorization in writing, by COUNTY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding Five Thousand Dollars (\$5,000.00) for supplies, equipment, or consultant services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding Five Thousand Dollars (\$5,000.00) requiring prior authorization by COUNTY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two (2) years and an acquisition cost of Five Thousand Dollars (\$5,000.00) or more. If the purchased equipment needs replacement and is sold or traded in, COUNTY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit COUNTY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COUNTY procedures; and credit COUNTY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by COUNTY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COUNTY." 49 CFR, Part 18 requires a credit to federal funds when equipment with a value greater than Five Thousand Dollars (\$5,000.00) is credited to the project.

#### ARTICLE XII – STATE PREVAILING WAGE RATES

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code Section 1770, and all federal, state, and local laws and ordinances applicable to the work required hereunder.
- B. Any subcontract entered into as a result of this contract, if for more than Twenty Five Thousand Dollars (\$25,000.00), for public works construction or more than Fifteen Thousand Dollars (\$15,000.00) for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.
- C. When prevailing wages apply to the services described herein and Attachment A – Scope of Work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of

Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. (See <http://www.dir.ca.gov>.)

#### ARTICLE XIII – CONFLICT OF INTEREST

- A. CONSULTANT shall disclose any financial, business, or other relationship with COUNTY that may have an impact upon the outcome of this contract, or any ensuing COUNTY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing COUNTY construction project, which will follow.
- B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

#### ARTICLE XIV – REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

CONSULTANT warrants that this contract was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any COUNTY employee. For breach or violation of this warranty, COUNTY shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

#### ARTICLE XV – PROHIBITION OF EXPENDING COUNTY, STATE OR FEDERAL FUNDS FOR LOBBYING

- A. CONSULTANT hereby certifies to the best of his or her knowledge and belief that:
  - 1. No local, state or federal appropriated funds have been paid, or will be paid by, or on behalf of, CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the California State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract, the making of any state or federal grant, the making of any state or federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
  - 2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress; or an employee of a Member of Congress, in connection with a federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00) for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed One Hundred Thousand Dollars (\$100,000.00) and that all such subrecipients shall certify and disclose accordingly.

## ARTICLE XVI – STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Government Code Section 12990 and Title 2 of the California Code of Regulations Section 8103.
- B. During the performance of this contract, CONSULTANT and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over forty (40) years of age), marital status, and denial of family care leave. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12990(a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this contract by reference and made a part hereof as if set forth in full. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- C. CONSULTANT shall comply with regulations relative to Title VI of the Civil Rights Act of 1964 (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 CFR, Part 21 – Effectuation of Title VI of the Civil Rights Act of 1964). Title VI of the Civil Rights Act of 1964 provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the State of California shall, on the basis of race, color, national origin, religion, sex, age, or disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- D. CONSULTANT, with regard to the work performed during this contract shall act in accordance with Title VI of the Civil Rights Act of 1964. Specifically, CONSULTANT shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subconsultants, including procurement of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT Regulations, including employment practices for employment related programs.

## ARTICLE XVII – DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (nonprocurement)," which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to COUNTY.

- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT's responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the FHWA.

#### ARTICLE XVIII – FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- B. This contract is valid and enforceable only, if sufficient funds are made available to COUNTY for the purpose of this contract. In addition, this contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or COUNTY governing board that may affect the provisions, terms, or funding of this contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. COUNTY has the option to void the contract due to insufficient funding upon thirty (30) days advance written notice pursuant to the termination provisions set forth herein, or by mutual agreement to amend the contract to reflect any reduction of funds.

#### ARTICLE XIX – CHANGE IN TERMS

- A. This contract may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by COUNTY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this contract without prior written approval by COUNTY's Contract Administrator.

#### ARTICLE XX – DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this contract is ZERO percent (0%). Participation by a DBE consultant or subconsultants shall be in accordance with information contained in Attachment C – Consultant Proposal DBE Commitment (Exhibit 10-O1), or in Attachment D – Consultant Contract DBE Information (Exhibit 10-O2), which are attached hereto and incorporated as part of the contract. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out the applicable requirements of 49 CFR, Part 26 in the award and administration of U.S. DOT assisted agreements. Failure by CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as COUNTY deems appropriate.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
- E. A DBE firm may be terminated only with prior written approval from COUNTY for the reasons specified in 49 CFR Section 26.53(f). Prior to requesting COUNTY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR Section 26.53(f).
- F. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors must be evaluated.
- G. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, similar transactions, particularly those in which DBEs do not participate, must be examined.
- H. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- I. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- J. Upon completion of this contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise, First-Tier Subconsultants," CEM-2402F [Exhibit 17-F, of the Local Assistance Procedures Manual (LAPM)], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to COUNTY's Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty five percent (25%) of the dollar value of the invoice being withheld from payment until such summary is submitted. Any amounts withheld as a result of a failure to provide a summary of DBE payments will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises, First-Tier Subconsultants" form is submitted to COUNTY's Contract Administrator.

- K. If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to COUNTY's Contract Administrator within thirty (30) calendar days thereof.

#### ARTICLE XXI – CONTINGENT FEE

CONSULTANT warrants by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, COUNTY has the right to terminate this contract without liability, pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

#### ARTICLE XXII – DISPUTES

- A. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of COUNTY's Contract Administrator and other COUNTY officials, who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all work under this contract, CONSULTANT may request review by COUNTY. The request for review shall be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the COUNTY will excuse CONSULTANT from full and timely performance in accordance with the terms of this contract.

#### ARTICLE XXIII – INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit COUNTY, the State of California, and FHWA, if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

#### ARTICLE XXIV – SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by the Humboldt County Risk Manager and other COUNTY representatives. CONSULTANT's staff shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Section 591 of the California Vehicle Code, COUNTY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the California Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

- C. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

#### ARTICLE XXV – INSURANCE AND INDEMNIFICATION

- A. Prior to the execution of this contract, CONSULTANT shall furnish to COUNTY satisfactory proof that CONSULTANT has taken out for the entire period required by this contract, as further described below, the following insurance, in a form satisfactory to COUNTY, and with an insurance carrier satisfactory to COUNTY, authorized to do business in the State of California with a current A.M. Bests rating of no less than A; VII or its equivalent, which will protect those described below from claims which arise out of, or in connection with, the acts or omissions of CONSULTANT for which CONSULTANT may be legally liable, whether performed by CONSULTANT, or by those employed directly or indirectly by it, or by anyone for whose acts CONSULTANT may be liable:
  - 1. Commercial General Liability Insurance, written on an “occurrence” basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, products liability, blasting, explosion, collapse of buildings or structures, damage to underground structures and utilities, liability for slander, false arrest and invasion of privacy arising out of professional land surveying operations, blanket contractual liability, broad form endorsement, a professional land surveying endorsement, products and completed operations, personal and advertising liability, with per location limits of not less than Two Million Dollars (\$2,000,000) per occurrence for any one incident, subject to a deductible of not more than Twenty Five Thousand Dollars (\$25,000.00) payable by CONSULTANT. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.
  - 2. Business Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000.00) for each occurrence including coverage for owned, non-owned and hired vehicles, subject to a deductible of not more than Ten Thousand Dollars (\$10,000.00) payable by CONSULTANT.
  - 3. Workers’ Compensation Insurance, as required by the California Labor Code, with statutory limits and Employers’ Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY, its agents, officers, officials, employees and volunteers. In the event CONSULTANT is self-insured, a Certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations – Administration of Self-Insurance, shall be filed with the Clerk of the Humboldt County Board of Supervisors.
  - 4. Professional Liability Insurance – Error and Omission Coverage, including coverage in an amount no less than Two Million Dollars (\$2,000,000) for each occurrence (Four Million Dollars (\$4,000,000) general aggregate), subject to a deductible not to exceed Twenty Five Thousand Dollars (\$25,000.00) payable by CONSULTANT. Said insurance shall be maintained for the statutory period during which CONSULTANT may be exposed to liability. CONSULTANT shall require that such coverage be incorporated into its professional services agreements with any other entities.



- B. CONSULTANT's insurance policies shall, unless otherwise specified herein, be endorsed with the following provisions:
1. CONSULTANT's Commercial General Liability policy and Automobile Liability policy shall name COUNTY, and its affiliates, directors, officers, officials, partners, representatives, employees, consultants, subconsultants, agents and landlord, as additional insureds, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured. CONSULTANT's Commercial General Liability policy shall also contain a provision stating that such coverage:
    - a. Includes contractual liability.
    - b. Is the primary insurance with regard to COUNTY.
    - c. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of building or structure to property underground, commonly referred to as "XCU Hazards."
    - d. Does not contain a pro-rated excess only and/or escape clause.
    - e. Contains a cross liability, severability of interest or separation of insured's clause.
  2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. CONSULTANT shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.
  3. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.
  4. For claims related to this Agreement, CONSULTANT's insurance is the primary coverage to COUNTY, and any insurance or self-insured programs maintained thereby are excess to CONSULTANT's insurance and will not be used to contribute therewith.
  5. Any failure to comply with the provisions of this Agreement, including breach of warranties, shall not affect coverage provided to COUNTY.
  6. CONSULTANT shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. The endorsements shall be on forms approved by the Humboldt County Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000) shall be disclosed to, and approved by, COUNTY. If CONSULTANT does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and CONSULTANT agrees to pay the cost thereof. COUNTY is also hereby authorized to deduct the cost of said insurance from the monies owed to CONSULTANT under this Agreement.
  7. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered, and CONSULTANT shall be required to purchase additional coverage to meet above-referenced aggregate limits.

8. Nothing contained herein shall be construed as limiting in any way the extent to which CONSULTANT or any of its permitted subcontractors or subconsultants may be held responsible for payment of damages resulting from their operations.
- C. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

CONSULTANT: Points West Surveying Company  
Attention: David A. Crivelli, Project Manager  
5201 Carlson Park Drive, Suite 3  
Arcata, CA 95521

COUNTY: County of Humboldt  
Attention: Risk Management  
825 Fifth Street, Room 131  
Eureka, California 95501

**AND**

Humboldt County Department of Public Works  
Attention: Tony Seghetti, Contract Administrator  
1106 Second Street  
Eureka, California 95501

- D. In connection with the performance of the design professional services required hereunder, CONSULTANT shall, to the fullest extent permitted by law, and in accordance with California Civil Code Section 2782.8, indemnify, defend and hold harmless COUNTY, its officers, agents and employees, from any claim, liability, loss, injury or damage (referred to collectively as "Litigation") that arises out of, pertains to, relates to, or is connected with, performance of this contract due to the negligence, recklessness, or willful misconduct of CONSULTANT and/or its agents, employees or subconsultants. CONSULTANT shall reimburse COUNTY for all costs, attorneys' fees, expenses and liabilities incurred with respect to any Litigation in which CONSULTANT is obligated to indemnify and defend COUNTY under this contract.
- E. In connection with the performance of the non-design professional services required hereunder, if any, CONSULTANT shall hold harmless, defend and indemnify COUNTY and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense and costs of any kind or nature, including, without limitation, costs and fees of Litigation, arising out of, or in connection with, CONSULTANT's performance of, or failure to comply with, any of its obligations contained in the contract, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY. CONSULTANT shall reimburse COUNTY for all costs, attorneys' fees, expenses and liabilities incurred with respect to any Litigation in which CONSULTANT is obligated to indemnify and defend COUNTY under this contract.

**ARTICLE XXVI – OWNERSHIP OF DATA**

- A. Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produced as part of this contract will automatically be vested in COUNTY; and no further agreement will be necessary to transfer ownership to COUNTY. CONSULTANT shall furnish COUNTY all necessary copies of data needed to complete the review and approval process.

- B. All calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the projects for which this contract has been entered into.
- C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by COUNTY of the machine-readable information and data provided by CONSULTANT under this contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by COUNTY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as many be authorized in writing by CONSULTANT.
- D. The parties hereby agree to comply with all applicable federal provisions pertaining to patent rights regarding rights to inventions (48 CFR, Part 27, Subpart 27.3 – Patent Rights Under Government Contracts for Federal-Aid Contracts).
- E. COUNTY may permit copyrighting reports or other products created hereunder. If copyrights are permitted, FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.
- F. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

#### ARTICLE XXVII – CLAIMS FILED BY COUNTY’S CONSTRUCTION CONTRACTOR

- A. If claims are filed by COUNTY’S construction contractor relating to work performed by CONSULTANT, and additional information or assistance from CONSULTANT is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with COUNTY’S Contract Administrator and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT shall, upon reasonable notice from COUNTY, allow interviews of all personnel that COUNTY considers essential to assist in defending against construction contractor claims.
- C. Services of CONSULTANT in connection with COUNTY’S construction contractor claims will be performed pursuant to a written contract amendment.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

#### ARTICLE XXVIII – CONFIDENTIALITY OF DATA

- A. In performance of this contract, CONSULTANT may receive information that is confidential under local, state or federal law. CONSULTANT hereby agrees to protect all confidential information in conformance with any and all applicable local, state and federal laws.
- B. All financial, statistical, personal, technical, or other data relative to COUNTY’S operations, which are designated confidential by COUNTY and made available to CONSULTANT in order to carry out this contract, shall be protected by CONSULTANT from unauthorized use and disclosure.
- C. Permission to disclose information on one occasion, or public hearing held by COUNTY relating to the contract, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

- D. All informational material related to this Agreement shall receive approval from COUNTY prior to being released to the media (television, radio, newspapers and internet). CONSULTANT shall inform COUNTY of all requests for interviews by media related to this Agreement before such interviews take place; and COUNTY is entitled to have a representative present at such interviews. All notices required by this provision shall be given to COUNTY's Contract Administrator.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

#### ARTICLE XXIX – NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with California Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within two (2) years prior to the execution of this contract, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

#### ARTICLE XXX – EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by COUNTY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained by COUNTY as part of the contract record.

#### ARTICLE XXXI – RETENTION OF FUNDS

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this Article.
- B. No retainage will be withheld by COUNTY from progress payments due to CONSULTANT. Retainage by CONSULTANT or subconsultants is prohibited, and no retainage will be held by CONSULTANT from progress due to subconsultants. Any violation of this provision shall subject CONSULTANT or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to CONSULTANT or subconsultants in the event of a dispute involving late payment or nonpayment by CONSULTANT or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE consultants and subconsultants.

#### ARTICLE XXXII – NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this contract and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT: Points West Surveying Company  
Attention: David A. Crivelli, Project Manager  
5201 Carlson Park Drive, Suite 3  
Arcata, CA 95521

COUNTY: Humboldt County Department of Public Works  
Attention: Tony Seghetti, Contract Administrator  
1106 Second Street  
Eureka, California, 95501

### ARTICLE XXXIII – GOVERNING LAW, PRACTICE STANDARDS AND BINDING EFFECT

- A. This contract shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.
- B. This contract is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the provisions, terms or funding of this contract. This contract shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.
- C. CONSULTANT agrees to comply with all local, state and federal laws and regulations, including, but not limited to, the Americans with Disabilities Act. CONSULTANT further agrees to comply with all applicable local, state and federal accrediting, licensure and certification requirements.
- D. CONSULTANT warrants that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONSULTANT's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances. It is hereby understood that COUNTY's acceptance of the services performed by CONSULTANT hereunder shall not operate as a waiver or release of any breach of this contract.
- E. The terms of this contract shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties.

### ARTICLE XXXIV – NO WAIVER OF DEFAULT

- A. The waiver by either party of any breach or violation of any requirement of this contract shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this contract.
- B. In no event shall any payment by COUNTY constitute a waiver of any breach of this contract or any default which may then exist on the part of CONSULTANT. Neither shall such payment impair or prejudice any remedy available to COUNTY with respect to the breach or default. COUNTY shall have the right to demand that CONSULTANT repay any funds disbursed to CONSULTANT under this contract, which in the judgment of COUNTY were not expended in accordance with the terms of this contract. CONSULTANT shall promptly refund any such funds upon demand.

### ARTICLE XXXV – ATTORNEY FEES ON BREACH

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this contract from being performed, the prevailing party in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees, including the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorney's fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

**ARTICLE XXXVI – NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE**

CONSULTANT certifies by its signature below that it is not a Nuclear Weapons Contractor, in that CONSULTANT is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONSULTANT agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor, as defined above. COUNTY may immediately terminate this contract if it determines that the foregoing certification is false or if CONSULTANT becomes a Nuclear Weapons Contractor.

**ARTICLE XXXII – CONTRACT**

The two parties to this contract, who are the before named CONSULTANT and the before named COUNTY, hereby agree that this contract constitutes the entire agreement which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this contract as evidenced by the signatures below.

[Signatures on Following Page]

ARTICLE XXXVIII – SIGNATURES

**TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:**

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

**POINTS WEST SURVEYING COMPANY:**

By: 

Date: 12/4/17

Name: DAVID A. CRIVELLI

Title: PRESIDENT

By: 

Date: 12/4/2017

Name: MICHAEL D PULLEY

Title: SECRETARY + CFO

**COUNTY OF HUMBOLDT:**

By:   
Ryan Sundberg  
Chair, Board of Supervisors

Date: 1/9/18

**INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:**

By:   
Risk Analyst

Date: 12/28/17

- Attachment A – Scope of Work
- Attachment B – Cost Proposal
- Attachment C – Consultant Contract DBE Commitment (Exhibit 10-O2)
- Attachment D – Consultant Certification of Contract Costs and Financial Management System (Exhibit 10-K)
- Attachment E – Certificate of Liability Insurance

**ATTACHMENT A – SCOPE OF WORK**





**Typical Surveying Scope of Work  
for  
County of Humboldt Public Works Dept.  
Topographic Survey for Emergency Storm Damage Road Project**

**Client (County of Humboldt) will provide:**

- Legal and physical access to project site.
- Direction as to desired area to be surveyed (Sketch to be provided).
- Any pertinent Autocad drawings, project maps or descriptions, or previous survey data by County or other consultants in County possession

**Consultant (Points West Surveying) shall provide:**

- Perform topographic survey at damaged road location, extents to be determined via Sketch in conjunction with Client. Survey will locate visible features such as edges of pavement, existing striping, scarp and failure features, visible utility appurtenances, and spot elevations sufficient to determine one foot contours. Trees 12 inch and larger will be located if required by County. Underground utilities will be shown based on visible physical evidence and mapping provided by Client and PG&E. If requested by Client, Consultant will research property boundary information and right of way information and perform ties to pertinent boundary monuments of record.
- Survey control will be established by locating project control points relative to the California State Plane Coordinate System of 1983 (CCS83) for Horizontal Datum and the North American Datum of 1988 (NAVD 88) for Vertical Datum unless otherwise specified by Client.
- Survey data will be mapped using AutoCAD Civil 3D 2014 software at an appropriate scale. Mapping will include features noted above, location of any right of way lines or property lines if determined.

**Cost: Hourly based on PWS 10-H Cost Proposal rates and Project Specific Cost Estimate.**



5201 Carlson Park Drive, Suite 3 Arcata, CA 95521

707.840.9510 Phone

707.840.9542 Fax

David A. Crivelli

Michael D. Pulley

crivelli@pointswestsurveying.com

pulley@pointswestsurveying.com

**Typical Surveying Scope of Work  
for  
County of Humboldt Public Works Dept.  
Construction Staking Survey**

**Client (County of Humboldt) will provide:**

- Legal and physical access to project site.
- Plans and data necessary for construction staking, including electronic drawings if available

**Consultant (Points West Surveying) shall provide:**

Perform Construction Staking for Project as required.

Possible elements to include:

- Office calculations of lines and grades
- Limits of new roadway
- Limits of cut or fill
- Slope staking of cut or fill
- Retaining walls
- Storm drain structures, culverts
- Bridge deck critical points, limits
- Preparation of cut sheets and staking diagrams

**Cost: Hourly based on PWS 10-H Cost Proposal rates and Project Specific Cost Estimate.**

**ATTACHMENT B – COST PROPOSAL**

**EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2)**

Page 1 of 2

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)  
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant or Subconsultant

Points West Surveying Company

Contract No. DPW 2017-005

Date 11/13/2017

Fringe Benefit 17.38% + Overhead 0.00% + General Administration 141.90% = 159.28% Combined Indirect Cost Rate (ICR)  
(= 0% if Included in OH) (= 0% if Included in OH)

FEE = 5.00%

**BILLING INFORMATION**

**CALCULATION INFORMATION**

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>			Effective date of hourly rate From	To	Actual or Avg. hourly rate <sup>3</sup>	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x)	OT(2x)					
Licensed Surveyor - Principal David Crivelli & Michael Pulley	\$ 149.74	\$ 224.62	\$ 299.49	10/1/2017	12/31/2018	\$ 55.00	2.00%	
	\$ 152.74	\$ 236.06	\$ 305.48	1/1/2019	12/31/2019		2.00%	
	\$ 155.80	\$ 247.86	\$ 311.59	1/1/2020	12/31/2020		2.00%	
Licensed Surveyor - Staff Jesse Buffington	\$ 108.91	\$ 163.36	\$ 217.81	10/1/2017	12/31/2018	\$ 40.00	2.00%	
	\$ 111.08	\$ 166.63	\$ 222.17	1/1/2019	12/31/2019		2.00%	
	\$ 113.31	\$ 169.96	\$ 226.61	1/1/2020	12/31/2020		2.00%	
Survey Crew (2 man) Prevailing Wage	\$ 240.00	\$ 280.00	\$ 300.00	10/1/2017	12/31/2018		2.00%	
	\$ 244.80	\$ 285.60	\$ 306.00	1/1/2019	12/31/2019		2.00%	
	\$ 249.70	\$ 291.31	\$ 312.12	1/1/2020	12/31/2020		2.00%	
Survey Crew (3 man) Prevailing Wage	\$ 300.00	\$ 350.00	\$ 400.00	10/1/2017	12/31/2018		2.00%	
	\$ 306.00	\$ 357.00	\$ 408.00	1/1/2019	12/31/2019		2.00%	
	\$ 312.12	\$ 364.14	\$ 416.16	1/1/2020	12/31/2020		2.00%	
Survey Technician II William Pool & Ryan Baxter	\$ 89.85	\$ 134.77	\$ 179.69	10/1/2017	12/31/2018	\$ 33.00	2.00%	
	\$ 91.65	\$ 137.47	\$ 183.28	1/1/2019	12/31/2019		2.00%	
	\$ 93.48	\$ 140.22	\$ 186.95	1/1/2020	12/31/2020		2.00%	
Survey Technician I Austin McChesney	\$ 76.23	\$ 152.47	\$ 152.47	10/1/2017	12/31/2018	\$ 28.00	2.00%	
	\$ 77.76	\$ 155.52	\$ 155.52	1/1/2019	12/31/2019		2.00%	

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate \* (1 + ICR) \* (1 + Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

NOTES:

- Denote all employees subject to prevailing wage with an asterisks (\*)
- For "Other Direct Cost" listing, see page 2 of this Exhibit

**EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2)** Page 2 of 2

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)  
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant or Subconsultant Points West Surveying Company Contract No. DPW 2017-005 Date 11/13/2017

**SCHEDULE OF OTHER DIRECT COST ITEMS**

PRIME CONSULTANT			SUBCONSULTANT #1			SUBCONSULTANT #2					
DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL
GPS Units	1	\$ 100.00	\$ 100.00				\$ 0.00				\$ 0.00
Boat	1	\$ 100.00	\$ 100.00				\$ 0.00				\$ 0.00
Quad	1	\$ 100.00	\$ 100.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
			\$ 0.00				\$ 0.00				\$ 0.00
PRIME TOTAL ODCs =			\$ 300.00	SUBCONSULTANT #1 ODCs =			\$ 0.00	SUBCONSULTANT #2 ODCs =			\$ 0.00

IMPORTANT NOTES:

- List direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentations.
- Proposed items should be consistently billed directly to all clients (Commercial entities, Federal Govt., State Govt., and Local Govt. Agency), and not just when the client will pay for them as a direct cost.
- Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
- Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
- Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
- Travel related costs should be pre-approved by the contracting agency.
- If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
- If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is their standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.



**Humboldt County On-Call Contract DPW 2017-005  
Cost Proposal**

Based on estimated 25 storm damage sites (topographic surveying)  
Additional estimate of 5 construction staking projects

Field	Hours	Hourly Rate	Total	x25	x5
Control work	3.5	\$ 240.00	\$ 840.00	\$ 21,000.00	
Topographic Survey, 2 man crew	16	\$ 240.00	\$ 3,840.00	\$ 96,000.00	
Topographic Survey, 3 man crew	8	\$ 300.00	\$ 2,400.00	\$ 60,000.00	
Topographic Survey, 2 man crew, OT (1.5x)	4	\$ 280.00	\$ 1,120.00	\$ 28,000.00	
Right of Way Survey	8	\$ 240.00	\$ 1,920.00	\$ 48,000.00	
Construction Survey	28	\$ 240.00	\$ 6,720.00		\$ 33,600.00

**Field time subtotal**

\$ 286,600.00

**Office**

Drafting, Survey Technician II	24	\$ 89.85	\$ 2,156.40	\$ 53,910.00	
Drafting, Survey Technician I	4	\$ 76.23	\$ 304.92	\$ 7,623.00	
Right of Way Research, Calculations, Principal LS	8	\$ 149.74	\$ 1,197.92	\$ 29,948.00	
Right of Way Research, Calculations, Staff LS	8	\$ 108.91	\$ 871.28	\$ 21,782.00	
Project Management	4	\$ 149.74	\$ 598.96	\$ 14,974.00	
Construction Calculations, Survey Technician II	20	\$ 89.85	\$ 1,797.00		\$ 8,985.00
Construction Calculations, Principal LS	8	\$ 149.74	\$ 1,197.92		\$ 5,989.60

**Office Subtotal**

\$ 143,211.60

**Total**

\$ 429,811.60

**ATTACHMENT C – CONSULTANT CONTRACT DBE COMMITMENT (EXHIBIT 10-O2)**

**EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT**

1. Local Agency: County of Humboldt 2. Contract DBE Goal: 0%  
 3. Project Description: RFQ No. DPW 2017-005, On-Call Professional Land Surveying Services  
 4. Project Location: Humboldt County, Various Locations  
 5. Consultant's Name: Points West Surveying 6. Prime Certified DBE:  7. Total Contract Award Amount: \$430,000  
 8. Total Dollar Amount for **ALL** Subconsultants: \$0 9. Total Number of **ALL** Subconsultants: 0

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>			\$0
20. Local Agency Contract Number: <u>DPW2017-005</u>	<b>14. TOTAL CLAIMED DBE PARTICIPATION</b>		0%
21. Federal-Aid Project Number: <u>N/A</u>			
22. Contract Execution Date: <u>1/9/2018</u>			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.
<u>Jeffrey A. Ball</u> 23. Local Agency Representative's Signature	<u>12/5/2017</u> 24. Date	<u>Michael D. Pulley</u> 15. Preparer's Signature	<u>12/4/2017</u> 16. Date
Jeffrey A. Ball	707.445.7377	Michael D. Pulley	707.840.9510
Associate Civil Engineer	26. Phone	Principal	18. Phone
27. Local Agency Representative's Title		19. Preparer's Title	

DISTRIBUTION: 1. Original – Local Agency  
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.



**ATTACHMENT D – CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL  
MANAGEMENT SYSTEM (EXHIBIT 10-K)**

**EXHIBIT 10-K CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM**

*(Note: If requesting to utilize the Safe Harbor Indirect Cost Rate submit Attachment 1 of DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts found at [http://www.dot.ca.gov/hq/LocalPrograms/DLA\\_OB/DLA\\_OB.htm](http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/DLA_OB.htm) in lieu of this form.)*

**Certification of Final Indirect Costs:**Consultant Firm Name: Points West Surveying CompanyIndirect Cost Rate: 1.593 \* for fiscal period 1/1/2016-12/31/2016

\*Fiscal period covered for Indirect Cost Rate developed (not the contract period).

Local Government: Humboldt County Public Works DepartmentContract Number: On-Call Contract Project Number: DPW 2017-005

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish final Indirect Cost Rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR), Part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR, Part 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and Indirect Cost Rates have been disclosed as of the date of proposal preparation noted above.

**Certification of Financial Management System:**

I, the undersigned, certify to the best of my knowledge and belief that our Financial Management System meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of Title 49, CFR, Part 18.20 to the extent applicable to Consultant.

**Certification of Dollar Amount for all A&E Contracts:**

I, the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is \$ \$370,000 and the number of states in which the firm does business is 1.

**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are reasonable, allowable and allocable to the contract in accordance with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:

1. Compliant with Generally Accepted Accounting Principles (GAAP) and standards promulgated by the Cost Accounting Standards Board (when applicable).
2. Compliant with the terms of the contract and is incurred specifically for the contract.
3. Not prohibited by 23 CFR, Chapter 1, Part 172 – Administration of Engineering and Design Related Service Contracts to the extent requirements are applicable to Consultant.

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files.

**Subconsultants (if applicable)**

Proposed Contract Amount (or amount not to exceed if on-call contract): \$ \_\_\_\_\_

**Prime Consultants (if applicable)**

Proposed Total Contract Amount (or amount not to exceed if on-call contract): \$ NTE \$430,000

Prime, list all subconsultants and proposed subcontract dollar amounts (attach additional page if necessary):

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**Consultant Certifying (Print Name and Title):**

Name: Michael D. Pulley

Title: Vice President, Principal + CFO

Consultant Certification Signature \*\*: 

Date of Certification (mm/dd/yyyy): 11/13/2017

**Consultant Contact Information:**

Email: pulley@pointswestsurveying.com

Phone number: 707.840.9510

**\*\*An individual executive or financial officer of the consultant’s organization at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the Indirect Cost Rate proposal submitted in conjunction with the contract.**

*Note: Per 23 U.S.C. 112(b)(2)(B), Subconsultants must comply with the FAR Cost Principles contained in 48 CFR, Part 31. 23 CFR Part 172.3 Definitions state: Consultant means the individual or firm providing engineering and design related services as a party to the contract. Therefore, subconsultants as parties of a contract must complete a certification and send originals to A&I and keep copies in Local Agency Project Files.*

**Distribution:** 1) Original to Caltrans Audits and Investigations  
2) Retained in Local Agency Project Files

**ATTACHMENT E – CERTIFICATE OF LIABILITY INSURANCE**



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/12/2017

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

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: George Petersen Insurance Agency, Inc.
INSURED: Points West Surveying Co.
CONTACT NAME: info@gpins.com
INSURER(S) AFFORDING COVERAGE: Valley Forge Insurance Company, Continental Casualty Company, American Casualty Co. of Reading PA

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT 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.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes rows for Commercial General Liability, Automobile Liability, Umbrella Liability, and Workers Compensation and Employers' Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
On Call Professional Land Surveying
Certificate holder is named additional insured per attached forms SB146932E and SCA23500D. Waiver of subrogation applied per form WC040306.

CERTIFICATE HOLDER: County of Humboldt
CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
AUTHORIZED REPRESENTATIVE: [Signature]

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**  
**BLANKET ADDITIONAL INSURED – LIABILITY EXTENSION**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS LIABILITY COVERAGE FORM**

Coverage afforded under this extension of coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Policy.

**1. ADDITIONAL INSURED – BLANKET VENDORS**

WHO IS AN INSURED is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, 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, except when 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; or
  - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its

own acts or omission or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (1) The exceptions contained in Subparagraphs d. or f.; or
- (2) 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.

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.
3. This provision 2. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
4. This provision 2. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Policy or by endorsement.

**2. MISCELLANEOUS ADDITIONAL INSUREDS**

WHO IS AN INSURED is amended to include as an insured any person or organization (called additional insured) described in paragraphs 2.a. through 2.h. below whom you are required to add as an additional insured on this policy under a written contract or agreement but the written contract or agreement must be:

1. Currently in effect or becoming effective during the term of this policy; and
2. Executed prior to the "bodily injury," "property damage" or "personal and advertising injury," but

Only the following persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

**a. Additional Insured – Your Work**

That person or organization for whom you do work is an additional insured solely for liability

due to your negligence specifically resulting from your work for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.

The insurance provided to the additional insured is limited as follows:

- (1) The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- (2) The coverage provided to the additional insured by this endorsement and paragraph F.9. of the definition of "insured contract" under **Liability and Medical Expenses Definitions** do not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.
- (3) The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services.

**b. State or Political Subdivisions**

A state or political subdivision subject to the following provisions:

- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:
  - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - (b) The construction, erection, or removal of elevators; or
- (2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality.

**c. Controlling Interest**

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) Their financial control of you; or
- (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured.

**d. Managers or Lessors of Premises**

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**e. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

**f. Owners/Other Interests – Land is Leased**

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or

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- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**g. Co-owner of Insured Premises**

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

**h. Lessor of Equipment**

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
- (2) To "bodily injury," "property damage" or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs b. through h. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

**3. The following is added to Paragraph H. of the BUSINESSOWNERS COMMON POLICY CONDITIONS:**

**H. Other Insurance**

- 4. This insurance is excess over any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and noncontributing.

**4. LEGAL LIABILITY – DAMAGE TO PREMISES**

- A. Under B. Exclusions, 1. Applicable to Business Liability Coverage, Exclusion k.

**Damage To Property**, is replaced by the following:

**k. Damage To Property**

"Property damage" to:

- 1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- 2. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- 3. Property loaned to you;
- 4. Personal property in the care, custody or control of the insured;
- 5. That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly in your behalf are performing operations, if the "property damage" arises out of those operations; or
- 6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph 2 of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs 1, 3, and 4, of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D – Liability and Medical Expenses Limits of Insurance.



Paragraphs 3, 4, 5, and 6 of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph 6 of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

**B. Under B. Exclusions, 1. Applicable to Business Liability Coverage,** the last paragraph of 2. Exclusions is deleted and replaced by the following:

Exclusions **c, d, e, f, g, h, i, k, l, m, n, and o,** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in **Section D. Liability And Medical Expenses Limits Of Insurance.**

**C. The first Paragraph under item 5. Damage To Premises Rented To You Limit of Section D. Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

The most we will pay under Business Liability for damages because of "**property damage**" to any one premises, while rented to you, or temporarily occupied by you, with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You limit shown in the Declaration.

**5. Blanket Waiver of Subrogation**

We waive any right of recovery we may have against:

- a. Any person or organization with whom you have a written contract that requires such a waiver.

**6. Broad Knowledge of Occurrence**

The following items are added to **E. Businessowners General Liability Conditions** in the **Businessowners Liability Coverage Form:**

- e. Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence," offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;

- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This paragraph **e.** applies separately to you and any additional insured.

**7. Bodily Injury**

**Section F. Liability and Medical Expenses Definitions,** item 3. "Bodily Injury" is deleted and replaced with the following:

"**Bodily Injury**" means bodily injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the bodily injury, sickness or disease.

**8. Expanded Personal and Advertising Injury Definition**

a. The following is added to **Section F. Liability and Medical Expenses Definitions, item 14. Personal and Advertising Injury, in the Businessowners General Liability Coverage Form:**

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

- 1. Not done intentionally by or at the direction of:
  - a. The insured; or
  - b. Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and

- 2. Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any insured.

b. The following is added to Exclusions, **Section B.:**

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**  
**EXTENDED COVERAGE ENDORSEMENT – BA PLUS**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM**

**I. LIABILITY COVERAGE**

**A. Who Is An Insured**

The following is added to **Section II, Paragraph A.1., Who Is An Insured:**

1. a. Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; **provided that,**
  - b. The insurance afforded by this provision **A.1.** does not apply to any such entity that is an "insured" under any other liability "policy" providing "auto" coverage.
2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

The insurance afforded by this provision **A.2.:**

- a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.
- b. Does not apply to:
  - (1) "Bodily injury" or "property damage" caused by an "accident" that occurred before you acquired or formed the organization; or
  - (2) Any such organization that is an "insured" under any other liability "policy" providing "auto" coverage.
3. Any person or organization that you are obligated to provide insurance where required by a written contract or agreement is an insured, but only with respect to legal responsibility for acts or omissions of a person for whom Liability Coverage is afforded under this policy.
4. An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

"Policy," as used in this provision **A. Who Is An Insured,** includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or
2. Whose limits have been exhausted.

**B. Bail Bonds and Loss of Earnings**

**Section II, Paragraphs A.2.a.(2) and A.2.a.(4)** are revised as follows:

1. In **a.(2),** the limit for the cost of bail bonds is increased from \$2,000 to \$5,000, and
2. In **a.(4),** the limit for the loss of earnings is increased from \$250 to \$500 a day.

**C. Fellow Employee**

**Section II, Paragraph B.5** does not apply.

Such coverage as is afforded by this provision **C.** is excess over any other collectible insurance.

**II. PHYSICAL DAMAGE COVERAGE**

**A. Towing**

**Section III, Paragraph A.2.,** is revised to include Light Trucks up to 10,000 pounds G.V.W.

**B. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles**

The following is added to **Section III, Paragraph A.3.:**

With respect to any covered "auto," any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

**C. Transportation Expenses**

**Section III, Paragraph A.4.a.** is revised, with respect to transportation expense incurred by you, to provide:

- a. \$60 per day, in lieu of \$20; subject to
- b. \$1,800 maximum, in lieu of \$600.

**D. Loss of Use Expenses**

**Section III, Paragraph A.4.b.** is revised, with respect to loss of use expenses incurred by you, to provide:

- a. \$1,000 maximum, in lieu of \$600.

**E. Personal Property**

The following is added to **Section III, Paragraph A.4.**

c. We will pay up to \$500 for loss to **Personal Property** which is:

- (1) Owned by an "insured"; and

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**(2) In or on the covered "auto."**

This coverage applies only in the event of a total theft of your covered "auto."

This insurance is excess over any other collectible insurance and no deductible applies.

**F. Rental Reimbursement**

The following is added to **Section III, Paragraph A.4.:**

**d. We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto." Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto." No deductibles apply to this coverage.**

**1. We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:**

- (a) The number of days reasonably required to repair or replace the covered "auto"; or,**
- (b) 15 days.**

**2. Our payment is limited to the lesser of the following amounts:**

- (a) Necessary and actual expenses incurred; or,**
- (b) \$25 per day subject to a maximum of \$375.**

**3. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.**

**4. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under the Physical Damage Coverage Extension.**

**G. Hired "Autos"**

The following is added to **Section III, Paragraph A.:**

**5. Hired "Autos"**

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

- a. Any covered "auto" you lease, hire, rent or borrow without a driver; and**
- b. Any covered "auto" hired or rented by your "employee" without a driver, under a contract in that individual "employee's" name, with**

your permission, while performing duties related to the conduct of your business.

**c. The most we will pay for any one "accident" or "loss" is the actual cash value, cost of repair, cost of replacement or \$75,000 whichever is less minus a \$500 deductible for each covered auto. No deductible applies to "loss" caused by fire or lightning.**

**d. The physical damage coverage as is provided by this provision will be limited to the types of physical damage coverage(s) provided on your owned "autos."**

**e. Such physical damage coverage for hired "autos" will:**

**(1) Include loss of use, provided it is the consequence of an "accident" for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.**

**(2) Such coverage as is provided by this provision G.e.(1) will be subject to a limit of \$750 per "accident."**

**H. Airbag Coverage**

The following is added to **Section III, Paragraph B.3.**

The accidental discharge of an airbag shall not be considered mechanical breakdown.

**I. Electronic Equipment**

**Section III, Paragraphs B.4.c and B.4.d. are deleted and replaced by the following:**

**c. Physical Damage Coverage on a covered "auto" also applies to "loss" to any permanently installed electronic equipment including its antennas and other accessories**

**d. A \$100 per occurrence deductible applies to the coverage provided by this provision.**

**J. Diminution in Value**

The following is added to **Section III, Paragraph B.6.**

Subject to the following, the "diminution in value" exclusion does not apply to:

**a. Any covered "auto" of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and**

**b. Any covered "auto" of the private passenger type hired or rented by your "employee" without a driver for a period of 30 days or less, under a contract in that individual**

"employee's" name, with your permission, while performing duties related to the conduct of your business.

- c. Such coverage as is provided by this provision is limited to a "diminution in value" loss arising directly out of accidental damage and not as a result of the failure to make repairs; faulty or incomplete maintenance or repairs; or the installation of substandard parts.
- d. The most we will pay for "loss" to a covered "auto" in any one accident is the lesser of:
  - (1) \$5,000; or
  - (2) 20% of the "auto's" actual cash value (ACV)

**III. Drive Other Car Coverage – Executive Officers**

The following is added to **Sections II and III**:

1. Any "auto" you don't own, hire or borrow is a covered "auto" for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers," except:

- a. An "auto" owned by that "executive officer" or a member of that person's household; or
- b. An "auto" used by that "executive officer" while working in a business of selling, servicing, repairing or parking "autos."

Such Liability and/or Physical Damage Coverage as is afforded by this provision will be:

- (1) Equal to the greatest of those coverages afforded any covered "auto"; and
- (2) Excess over any other collectible insurance.

2. For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are "insureds" while using a covered "auto" described in this provision.

**IV. BUSINESS AUTO CONDITIONS**

**A. Duties In The Event Of Accident, Claim, Suit Or Loss**

The following is added to **Section IV, Paragraph A.2.a.**

(4) Your "employees" may know of an "accident" or "loss." This will not mean that you have such knowledge, unless such "accident" or "loss" is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.**

(6) Your "employees" may know of documents received concerning a claim or "suit." This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

**B. Concealment, Misrepresentation or Fraud**

The following is added to **Section IV, Paragraph B.2.**

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

**C. Policy Period, Coverage Territory**

**Section IV, Paragraph B.7.b.(5)** is revised to provide:

- a. 45 days of coverage in lieu of 30 days

**V. DEFINITIONS**

**Section V. Paragraph C.** is deleted and replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****CALIFORNIA CHANGES**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS SPECIAL PROPERTY COVERAGE FORM  
BUSINESSOWNERS LIABILITY COVERAGE FORM  
BUSINESSOWNERS COMMON POLICY CONDITIONS

**A. The Businessowners Special Property Coverage Form is amended as follows:**

1. The following is added to any provision which uses the term actual cash value:

Actual cash value is calculated as the amount it would cost to repair or replace Covered Property, at the time of loss or damage, with material of like kind and quality, subject to a deduction for deterioration, depreciation and obsolescence. Actual cash value applies to valuation of Covered Property regardless of whether that property has sustained partial or total loss or damage.

The actual cash value of the lost or damaged property may be significantly less than its replacement cost.

2. Paragraph **E.2. Appraisal Property Loss Conditions** is replaced by the following:

**2. Appraisal**

If we and you disagree on the value of the property or the amount of loss, either may make written request for an appraisal of the loss. If the request is accepted, each party will select a competent and impartial appraiser. Each party shall notify the other of the appraiser selected within 20 days of the request. The two appraisers will select an umpire. If they cannot agree within 15 days, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property 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 there is an appraisal, we will still retain our right to deny the claim.

**B. The Businessowners Liability Coverage Form is amended as follows:**

The term spouse is replaced by the following:

Spouse or a registered domestic partner under California law.

**C. The Businessowners Common Policy Conditions are amended as follows:**

1. Paragraphs **A.2. and A.3. Cancellation** are replaced by the following:

**2. All Policies In Effect For 60 Days Or Less**

If this policy has been in effect for 60 days or less, and is not a renewal of a policy we have previously issued, we may cancel this policy by mailing or delivering to the first Named Insured at the mailing address shown in the policy and to the producer of record, advance written notice of cancellation, stating the reason for cancellation, at least:

- a. 10 days before the effective date of cancellation if we cancel for:

(1) Nonpayment of premium; or

(2) Discovery of fraud by:

(a) Any insured or his or her representative in obtaining this insurance; or

(b) You or your representative in pursuing a claim under this policy.

- b. 30 days before the effective date of cancellation if we cancel for any other reason.

**3. All Policies In Effect For More Than 60 Days**

- a. If this policy has been in effect for more than 60 days, or is a renewal of a policy we issued, we may cancel this policy only upon the occurrence, after the effective date of the policy, of one or more of the following:

(1) Nonpayment of premium, including payment due on a prior policy we issued and due during the current policy term covering the same risks.

(2) Discovery of fraud or material misrepresentation by:

- (a) Any insured or his or her representative in obtaining this insurance; or
  - (b) You or your representative in pursuing a claim under this policy.
- (3) A judgment by a court or an administrative tribunal that you have violated a California or Federal law, having as one of its necessary elements an act which materially increases any of the risks insured against.
- (4) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by you or your representative, which materially increase any of the risks insured against.
- (5) Failure by you or your representative to implement reasonable loss control requirements, agreed to by you as a condition of policy issuance, or which were conditions precedent to our use of a particular rate or rating plan, if that failure materially increases any of the risks insured against.
- (6) A determination by the Commissioner of Insurance that the:
- (a) Loss of, or changes in, our reinsurance covering all or part of the risk would threaten our financial integrity or solvency; or
  - (b) Continuation of the policy coverage would:
    - (I) Place us in violation of California law or the laws of the state where we are domiciled; or
    - (II) Threaten our solvency.
- (7) A change by you or your representative in the activities or property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the added, increased or changed risk is included in the policy.
- b. We will mail or deliver advance written notice of cancellation, stating the reason for cancellation, to the first Named Insured, at the mailing address shown in

the policy, and to the producer of record, at least:

- (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium or discovery of fraud; or
- (2) 30 days before the effective date of cancellation if we cancel for any other reason listed in Paragraph 3.a.

2. The following provision is added to Paragraph A. **Cancellation:**

**7. Residential Property**

This provision applies to coverage on real property which is used predominantly for residential purposes and consisting of not more than four dwelling units, and to coverage on tenants' household personal property in a residential unit, if such coverage is written under one of the following:

- a. If such coverage has been in effect for 60 days or less, and is not a renewal of coverage we previously issued, we may cancel this coverage for any reason, except as provided in Paragraphs b. and c. below.
- b. We may not cancel this policy solely because the first Named Insured has:
  - (1) Accepted an offer of earthquake coverage; or
  - (2) Cancelled or did not renew a policy issued by the California Earthquake Authority (CEA) that included an earthquake policy premium surcharge.

However, we shall cancel this policy if the first Named Insured has accepted a new or renewal policy issued by the CEA that includes an earthquake policy premium surcharge but fails to pay the earthquake policy premium surcharge authorized by the CEA.

- c. We may not cancel such coverage solely because corrosive soil conditions exist on the premises. This Restriction c. applies only if coverage is subject to one of the following, which exclude loss or damage caused by or resulting from corrosive soil conditions.

3. Paragraph C. **Concealment, Misrepresentation Or Fraud** is replaced by the following with respect to loss or damage caused by fire:

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**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 5% of the California workers' compensation premium otherwise due on such remuneration.

**Schedule**

**Person or Organization**

**Job Description**

COUNTY OF HUMBOLDT 1106 SECOND  
STREET EUREKA, CA 95501

ON-CALL MAP CHECKING & LEGAL OCSC CHECKING

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

INSURED

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Form No: WC 04 03 06 (04-1984)

Endorsement Effective Date:

Endorsement No: 9; Page: 1 of 1

Underwriting Company: American Casualty Company of Reading, Pennsylvania, 333 S Wabash Ave,  
Chicago, IL 60604

Endorsement Expiration Date:

Policy No: WC 4 30572358

Policy Effective Date: 03/31/2017

Policy Page: 55 of 72