

AGREEMENT

Division 00500

THIS AGREEMENT is made by and between COUNTY OF MONTEREY, a political subdivision of the State of California, hereinafter called "COUNTY," and NEWTON CONSTRUCTION hereinafter called "CONTRACTOR." For reference purposes, the date of this Agreement is the last date opposite the respective signatures below.

COUNTY AND CONTRACTOR hereby agree as follows:

ARTICLE 1. SCOPE OF WORK

This Job Order Contract (JOC) is an indefinite quantity contract pursuant to which Contractor will perform a variety of Job Orders, consisting of specific construction tasks. The scope of this JOC is for general construction, repair, remodel and other repetitive related work. County has published a Construction Task Catalog® (CTC) containing a series of construction tasks with preset Unit Prices. The CTC was developed using experienced labor and high quality materials. All Unit Prices are based on local labor, material and equipment prices including the current prevailing wages. Contractor will bid Adjustment Factors to be applied to the Unit Prices. The price of an individual Job Order will be determined by multiplying the preset Unit Prices and the appropriate quantities by the appropriate Adjustment Factor.

The scope of Work for this Contract will be determined by the Detailed Scopes of Work issued in connection with individual Job Orders. The Scope of Work (SOW), for each Job Order will be explained to Contractor at a Joint Scope Meeting. County will provide a Request for Job Order Proposal and Detailed SOW to Contractor. Contractor will be required to review the Detailed SOW and develop a Price Proposal using appropriate tasks, quantities and the applicable Adjustment Factor. County will review Contractor's Proposal in detail and if found to be reasonable and acceptable, a Job Order may be issued. The agreed upon price will be fixed price for the performance of the Detailed SOW.

CONTRACTOR shall, within the time stipulated, perform the contract **checked below** as herein defined and shall furnish all work, labor, equipment, transportation, material, and services to construct and complete in a good, expeditious, workmanlike, and substantial manner, the project:

- ☐ PROJECT NO. JOC, BID NO. ROADS & BRIDGES 2016-01.
- ☐ PROJECT NO. JOC, BID NO. ROADS & BRIDGES 2016-02
- ☒ PROJECT NO. JOC, BID NO. ROADS & BRIDGES 2016-03

ARTICLE 2. TIME FOR START AND COMPLETION

Contract Time commences upon the written execution of the Contract by County and shall end either one year from the date signed by county or upon the payment by County to Contractor of the maximum amount payable under this Agreement, whichever occurs earlier. County will not issue any new Job Orders after the expiration of this Agreement. Any Job Order authorized prior to the expiration of the Agreement must be completed within the time specified in the Job Order.

In the event the scheduled completion for any Job Order extends beyond the term of this Agreement, Contractor and County agree that the terms of this Agreement shall continue in effect and be applicable for such Job Orders. A separate Job Order Notice to Proceed (NTP) will be issued for each Job Order. Each Job Order will specify a time limit for completion as stated on the Job Order NTP.

ARTICLE 3. ADJUSTMENT FACTORS

Contractor shall perform all work required, necessary, proper for, or incidental to completing the Detailed SOW called for in each individual Job Order issued pursuant to this Contract for the Unit Prices set forth in the CTC. County shall pay Contractor the Job Order Price for completion of Work in accordance with Contract Documents and the Detailed SOW described in each Job Order multiplied by the following Adjustment Factors:

ADJUSTMENT FACTORS

The Minimum Contract Value is \$25,000. Contractor will receive Job Orders totaling at least \$25,000 during the Contract term. The Maximum Contract Value is \$4,659,196 for the **JOC ROADS & BRIDGES** ☐ 2016-01 or ☐ 2016-02 or ☒ 2016-03. County does not guarantee Contractor will receive this volume of Work. County may award contracts or issue Job Orders to other contractors for the same or similar Work during the term of this Agreement. In no event will Contractor be issued Job Orders which, in total, exceed the Maximum Contract Value. At no time may the sum of the outstanding Job Orders exceed the amount of the Payment Bond and Performance Bond. A Job Order is outstanding until County has accepted the Work described in the Job Order by recordation of a Notice of Completion. Contractor will not be issued Job Orders which in total exceed the Maximum Contract Value.

ITEM	DESCRIPTION	ADJUSTMENT FACTORS
1.	Normal Working Hours – North County	1.1950
2.	Normal Working Hours – South County	1.1950
3.	Other than Normal Working Hours – North County	1.1950
4.	Other than Normal Working Hours – South County	1.1950

ARTICLE 4. LIQUIDATED DAMAGES

County and Contractor recognize that time is of the essence of this Agreement and that County will suffer financial loss, if all or any part of the Work is not completed within the time specified in the Job Order, plus any extensions thereof. Accordingly, County and Contractor agree that liquidated damages for delay will be established by County for each Job Order. Contractor shall pay County the dollar amount stipulated in the Job Order for each day that expires after the time specified therein for contractor to achieve Completion.

These measures of liquidated damages shall apply cumulatively and except as provided below, shall be presumed to be the damages suffered by County resulting from delay in completion of the Work.

Liquidated damages for delay shall only cover project administrative (such as Project management and consultant expenses) and cost damages suffered by County as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from

Defective Work, lost revenues or costs of substitute Roads & Bridges, or damages suffered by others who then seek to recover their damages from County (for example, delay claims of other contractors, subcontractors, tenants, or other third parties), and defense costs thereof.

ARTICLE 5. NOTIFICATION OF THIRD PARTY CLAIMS

COUNTY shall notify CONTRACTOR of the receipt of any third party claim relating to the contract and is entitled to recover its reasonable costs incurred in providing the notification as provided in Public Contract Code Section 9201.

ARTICLE 6. COMPONENT PARTS OF THIS CONTRACT

The contract entered into by this Agreement consists of the following documents, all of which are component parts of the contract as if herein set out in full or attached hereto:

- Notice to Bidders
- Information for Bidders
- Bid, as accepted
- Noncollusion Affidavit
- Workers' Compensation Certificate
- Statement Concerning Employment of Undocumented Aliens
- Contractor's Certification of Good Faith Effort to Employ Monterey Bay Area Residents
- Written Plan to Recruit Monterey Bay Area Residents, when applicable
- Bid Bond or Bidder's Security
- Agreement
- Performance Bond
- Payment Bond
- Insurance Certificate
- Division 00710 General Conditions, **Bid Nos. ROADS & BRIDGES 2016-01, ROADS & BRIDGES 2016-02, ROADS & BRIDGES 2016-03**
- Project Specifications 2016
- Construction Task Catalog® 2016
- Technical Specifications 2016
- As issued, Addenda Nos:

All of the above named contract documents are intended to be complementary. Work required by one of the above named contract documents and not by others shall be done as if required by all.

IN WITNESS WHEREOF, the parties have duly executed four (4) identical counterparts of this instrument, each of which shall be for all purposes deemed an original thereof, on the dates set forth below.

COUNTY OF MONTEREY

By: Benny J. Young

Name: Benny J. Young

Title: Interim RMA Deputy Director of Public Works & Facilities

Date: Month 11 2016 7/16

APPROVED AS TO FORM

CONTRACTS/PURCHASING

By: _____

Name: Mike Derr

Title: Contracts/Purchasing Officer

Date: Month 2016

APPROVED AS TO FORM & LEGALITY

COUNTY COUNSEL

By: Mary Grace Perry

Name: Mary Grace Perry

Title: Deputy County Counsel

Date: Month 2016 Nov. 4, 2016

APPROVED AS TO FISCAL TERMS

COUNTY AUDITOR-CONTROLLER

By: Gary Giboney

Name: Gary Giboney

Title: Chief Deputy Auditor-Controller

Date: Month 11 2016

APPROVED AS TO INDEMNITY/INSURANCE PROVISIONS

RISK MANAGEMENT
COUNTY OF MONTEREY

By: APPROVED AS TO INDEMNITY/INSURANCE LANGUAGE

Name: Stacy Schumaker

Title: Risk Manager

Date: Month 11 2016 4-16

NEWTON CONSTRUCTION

By: Eric Newton

Name: Eric Newton

Title: President

Date: Month 11 2016

By: Eric Newton

Name: ERIC NEWTON

Title: TREASURER

Date: Month 11 2016

NEWTON CONSTRUCTION

P.O. BOX 3260

SAN LUIS OBISPO, CA 93401

Contractor's License Type: A, B, C10

License Number: 783608

License Expiration Date: 09/30/2018

NOTE: CONTRACTORS ARE REQUIRED TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P O BOX 26000, SACRAMENTO, CALIFORNIA 95826

INSTRUCTIONS: If bidder is a corporation, the full legal name of the corporation shall be set forth above together with the signatures of two (2) officers authorized to sign per California Corporations Code Section 313 and the document shall bear the corporate seal; if bidder is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of its Managing Members; if bidder is a partnership, the full name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if bidder is an individual, his/her signature shall be placed above



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/11/2016

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. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Peterson & Grantham Insurance Brokers 3005 Douglas Blvd. Suite 140 Roseville, CA 95661 License #: 0G05786	CONTACT NAME: Arrow Grantham PHONE (A/C, No, Ext): (916)431-0400 FAX (A/C, No): (916)431-0246 E-MAIL ADDRESS: arrow@pngins.com
INSURED	Newton Construction & Management, Inc 2436 Broad St San Luis Obispo, CA 93401	INSURER(S) AFFORDING COVERAGE INSURER A: Kinsale Ins Co INSURER B: Nationwide Mutual Fire Insurance INSURER C: National Union Fire Ins Co INSURER D: State Compensation Insurance Fund INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER: 00000000-404254

REVISION NUMBER: 3

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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	01000257881	12/31/2015	12/31/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 OTHER:
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	ACPBA7864308631	12/31/2015	12/31/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ OTHER:
C	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$	Y		BE041569795	12/31/2015	12/31/2016	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ OTHER:
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y	N/A	9082254-2016	03/28/2016	03/28/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER \$ 1,000,000 E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000


DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

County of Monterey, its officers, agents, and employees as Additional Insured's with respect to liability arising out of the Contractors work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self insurance maintained by the county and that the insurance of the Additional Insured's shall not be called upon to contribute to a loss covered by the Contractors insurance.

30 days notice of cancellation for nonpayment of premium.

CERTIFICATE HOLDER

CANCELLATION

County of Monterey 168 W Alisal Street, 3rd Floor Salinas, CA 93901	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  (AMG)
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES OR
CONTRACTORS - COMPLETED OPERATIONS**

<i>Attached To and Forming Part of Policy</i> 0100025788-1	<i>Effective Date of Endorsement</i> 12/31/2015 12:01AM at the Named Insured address shown on the Declarations	<i>Named Insured</i> Newton Construction & Management Inc
<i>Additional Premium:</i> \$0	<i>Return Premium:</i> \$0	

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) or Organization(s)	Location and Description of Completed Operations
Blanket, as required by written contract.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the “products-completed operations hazard”.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS SCHEDULED PERSON OR ORGANIZATION

Attached To and Forming Part of Policy 0100025788-1	Effective Date of Endorsement 12/31/2015 12:01AM at the Named Insured address shown on the Declarations	Named Insured Newton Construction & Management Inc
Additional Premium: \$0	Return Premium: \$0	

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE	
Name of Additional Insured Person(s) or Organization(s):	Location(s) of Covered Operations
Blanket, as required by written contract.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

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

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY ENDORSEMENT

<i>Attached To and Forming Part of Policy</i> 0100025788-1	<i>Effective Date of Endorsement</i> 12/31/2015 12:01AM at the Named Insured address shown on the Declarations	<i>Named Insured</i> Newton Construction & Management Inc
<i>Additional Premium:</i> \$0	<i>Return Premium:</i> \$0	

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE
ENVIRONMENTAL CONTRACTING AND PROFESSIONAL SERVICES LIABILITY COVERAGE

The insurance provided to Additional Insureds shall be primary and non-contributory with respect to any other valid and collectible insurance available to the Additional Insured, provided that the written contract specifically requires that this insurance apply on a primary and noncontributory basis.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHER TO US-BLANKET

Attached To and Forming Part of Policy 0100025788-1	Effective Date of Endorsement 12/31/2015 12:01AM at the Named Insured address shown on the Declarations	Named Insured Newton Construction & Management Inc
Additional Premium: \$0	Return Premium: \$0	

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE

SECTION IV – CONDITIONS, 8. Transfer of Rights of Recovery against Others to Us is amended by the addition of the following:

We waive any right of recovery we may have against persons or organizations because of payments we make for injury or damage arising out of “your work” done under a written contract with that person or organization wherein you have agreed to provide this waiver.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

**BUSINESS AUTO
SCHEDULE(S)**

NATIONWIDE MUTUAL INSURANCE COMPANY
1100 LOCUST ST DEPT 1100
DES MOINES, IA 50391-2000

The following schedule(s) is/are a continuation of the declarations.

Number: **ACP BA 7864308631**

Effective from 12/31/2015 to 12/31/2016

Named Insured: **NEWTON CONSTRUCTION & MANAGEMENT INC
DBA NEWTON CONSTRUCTION & MANAGEMENT**

Agency Name: **PETERSON & GRANTHAM INS**

SCHEDULE OF FORMS AND ENDORSEMENTS

Form No.	Date	Title	Premium
AC0001	(10/13)	CHANGES IN COVERAGE FORMS - BUSINESS AUTO	
AC0102	(03/10)	BUSINESS AUTO EXTENSION ENDORSEMENT	
AS0143	(09/09)	CALIFORNIA CHANGES	
AC0305	(04/00)	CALIFORNIA CHANGES - WAIVER OF COLLISION DEDUCTIBLE	
AC0424	(04/06)	CALIFORNIA AUTO MEDICAL PAYMENT COVERAGE	
AC2154	(09/09)	CALIFORNIA UNINSURED MOTORISTS COVERAGE - BODILY INJURY	
AC9954	(04/05)	AMENDMENT OF COVERED AUTO SYMBOL 7	
CA0001	(03/10)	BUSINESS AUTO COVERAGE FORM	
*CA0444	(03/10)	WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO U	
CA2001P	(03/06)	LESSOR - ADDITIONAL INSURED AND LOSS PAYEE	
CA2048	(02/99)	DESIGNATED INSURED	
CA2384	(01/06)	EXCLUSION OF TERRORISM	
GU207	(06/78)	BLANK ENDORSEMENT FORM	
IL0017	(11/98)	COMMON POLICY CONDITIONS	
IL0021	(07/02)	NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT	
IL0270	(09/12)	CALIFORNIA CHANGES - CANCELLATION AND NONRENEWAL	
13614	(11/85)	SPECIAL CONTINUATION PROVISION	

SCHEDULE OF IMPORTANT NOTICES

Form No.	Date	Title
IN0001	(06/05)	CONSUMER COMPLAINTS AND INFORMATION
IN0610	(01/04)	IMPORTANT NOTICE - AUTO BILL OF RIGHTS
IN5017	(05/93)	IMPORTANT NOTICE FOR RENEWAL POLICIES
IN5088	(04/99)	NOTICE OF INSURANCE INFORMATION PRACTICES (CA)
IN5134	(03/97)	EVIDENCE OF INSUR IS REQUIRED WITH REGISTR RENEWAL (CA)
IN5278	(12/13)	IMPORTANT NOTICE FAIR CREDIT REPORTING ACT
IN7165	(03/10)	BUSINESS AUTO EXTENSION ENDORSEMENT

PHSCHED (01-97)

DIRECT BILL EBL124

7H6G

2015321

AGENT COPY

ACP BA 7864308631

909355091

78 0007630

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM MOTOR CARRIER COVERAGE FORM

A. CHANGES FOR TRAILERS AND FARM EQUIPMENT

1. Under the COVERED AUTOS SECTION, the following are added to Paragraph C. Certain Trailers, Mobile Equipment and Temporary Substitute Autos:
 4. "Trailers" designed to be towed by a private passenger type "auto" or a pickup, panel truck or van if not used for business purposes, other than farming or ranching.
 5. Farm wagons or farm implements while being towed by a covered "auto".

B. CHANGES FOR ADDITIONAL NEWLY ACQUIRED VEHICLES

2. Paragraph B.2 of the COVERED AUTOS SECTION is replaced by the following:
 2. If Symbol(s) 7 or 67 is entered next to coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover at least one "auto" you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

The most we will pay for Physical Damage Coverage for "loss" under this Coverage Extension is \$100,000 per "auto", subject to the largest deductible applicable to any "auto" for that Coverage.

C. BLANKET ADDITIONAL INSURED

Any person or organization which you have agreed to name as an additional insured in a written contract, executed prior to an accident, other than a contract for the lease or

rental of a vehicle is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in the LIABILITY COVERAGE SECTION of the Coverage Form

D. REPLACED EXCLUSIONS

The Expected or Intended Injury Exclusion in the LIABILITY COVERAGE SECTION is replaced by the following:

Expected or Intended Injury

"Bodily injury" or "property damage" which is expected or intended by the "insured". This exclusion applies even if the resulting "bodily injury" or "property damage":

- a. is of a different kind, quality or degree than initially expected or intended; or
- b. is sustained by a different person, entity, real property, or personal property than that initially expected or intended.

E. ADDITIONAL EXCLUSIONS

The following exclusions are added to the LIABILITY COVERAGE SECTION:

Damage to Named Insured's Property

Any claim or "suit" for "property damage" by you or on your behalf against any other person or entity that is also a Named Insured under this policy.

Abuse or Molestation

"Bodily injury" or "property damage" arising out of:

- a. The actual or threatened abuse or molestation by anyone or any person while in the care, custody or control of any "insured", or
- b. The negligent:
 - 1) Employment;

- 2) Investigation;
 - 3) Supervision;
 - 4) Reporting to the proper authorities, or failure to so report; or
 - 5) Retention;
- of a person for whom any "insured" is or ever was legally responsible and whose conduct would be excluded by Paragraph a. above.

Abuse means an act which is committed with the intent to cause harm.

Explosives

"Bodily injury" or "property damage" caused by the explosion of explosives you make, sell or transport.

Rolling Stores

If a covered "auto" is a rolling store, "bodily injury" or "property damage" resulting from the handling, use or condition of any item the "insured" makes, sells or distributes if the injury or damage occurs after the "insured" has given up possession of the item.

Wrong Delivery of Liquid Products

"Bodily injury" or "property damage" resulting from the delivery of any liquid into the wrong receptacle or to the wrong address, or from the delivery of one liquid for another, if the "bodily injury" or "property damage" occurs after the delivery has been completed.

Delivery is considered completed even if further service or maintenance work, or correction, repair or replacement is required because of wrong delivery.

Professional Services

"Bodily injury":

- a. Resulting from the providing or the failure to provide any medical or other professional services.
- b. Resulting from food or drink furnished with these services.

"Bodily injury" or "property damage" resulting from the handling of corpses.

F. MOTOR HOME CONTENTS COVERAGE

1. For a covered "auto" that is a motor home the following exclusions are added to the PHYSICAL DAMAGE COVERAGE SECTION:

Motor Home Contents

This insurance does not apply to:

- a. "Loss" to the covered "auto's" contents, except equipment usual to trucks or private passenger "autos".
- b. "Loss" to TV antennas, awnings or cabanas.
- c. "Loss" to equipment designed to create added living facilities.

However, these exclusions do not apply if Miscellaneous Personal Property Coverage is provided by endorsement to this policy.

G. ACCIDENTAL AIRBAG DISCHARGE COVERAGE

Under Paragraph B.3.a. of the PHYSICAL DAMAGE SECTION, the following is added:

Mechanical breakdown does not include the accidental discharge of an airbag.

H. PHYSICAL DAMAGE LIMIT OF INSURANCE

Under PHYSICAL DAMAGE COVERAGE SECTION, Paragraph C., Limit of Insurance is replaced by the following:

C. Limit Of Insurance

1. The most we will pay for "loss" in any one "accident" is the lesser of:
 - a. The actual cash value of the damaged or stolen property as of the time of the "loss", or
 - b. The cost of repairing or replacing the damaged or stolen property.
2. \$1,000 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:
 - a. Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment.
 - b. Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
 - c. An integral part of such equipment.
3. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

4. The cost of repairing or replacing may:
 - a. Be based on an estimate which includes parts furnished by the original equipment manufacturer or other sources including non-original equipment manufacturers and
 - b. Include a deduction for betterment for a part or parts that are normally subject to repair or replacement during the useful life of the "auto", such as, but not limited to tires and batteries.

Betterment means the difference between the actual cash value of a part immediately before the "loss" and the cost to replace that part with a new part.

5. If we offer to pay the actual cash value of the damaged or stolen property, we will value auto advertising wraps, paint customization, and similar business related advertising modifications, in addition to the actual cash value of the property. Auto advertising wraps, paint customization, and similar business related advertising modifications will be valued at the cost to replace them with an adjustment made for depreciation and physical condition.

I. GLASS REPAIR –WAIVER OF DEDUCTIBLE

Under Paragraph D. Deductible of the PHYSICAL DAMAGE COVERAGE SECTION, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

J. AMENDED DUTIES IN EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS

The requirement in Loss Condition 2.a. Duties In the Event Of Accident, Claim, Suit Or Loss – of the BUSINESS AUTO CONDITIONS SECTION and the MOTOR CARRIER CONDITIONS SECTION that you must notify us of an "accident", "claim", "suit", or "loss" applies only when the "accident", "claim", "suit", or "loss" is known to :

1. You, if you are an individual
2. A partner, if you are a partnership;
3. An executive officer or the employee designated by you to give such notice if you are a corporation; or

4. A member, if you are a limited liability company.

K. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

The BUSINESS AUTO CONDITIONS SECTION and MOTOR CARRIER CONDITIONS SECTION– B.2. are amended by the addition of the following:

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

L. AUTOS HIRED OR RENTED BY EMPLOYEES

If hired or rented "autos" are covered "autos" on this policy, the following provisions apply:

A. Changes In Liability Coverage

The following is added to the Who Is An Insured Provision in the LIABILITY COVERAGE SECTION:

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.

B. Changes In General Conditions

Paragraph 5.b. of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph 5.f. of the **Other Insurance** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent or borrow; and
2. Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

M. EMERGENCY LOCKOUT - PRIVATE PASSENGER VEHICLES

We will reimburse you up to \$50 for reasonable expense incurred for the services of a locksmith to gain entry into your covered "auto" of the private passenger type subject to these provisions:

1. Your door key or key entry pad has been lost, stolen or locked in your covered "auto" and you are unable to enter such "auto", or
2. Your key or key entry pad has been lost or stolen and you have changed the lock to prevent an unauthorized entry; and

3. Original copies of receipts for services of a locksmith must be provided before reimbursement is payable.

N. LIBERALIZATION

Paragraph 3, of the General Conditions is replaced by the following:

If we adopt any revision that would broaden the coverage under this policy without additional premium within 60 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

All terms and conditions of this policy apply unless modified by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** Condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

All terms and conditions of this policy apply unless modified by this endorsement.

**BUSINESS AUTO
SCHEDULE(S)**

NATIONWIDE MUTUAL INSURANCE COMPANY
1100 LOCUST ST DEPT 1100
DES MOINES, IA 50391-2000

The following schedule(s) is/are a continuation of the declarations.

Number: ACP BA 7864308631

Effective from 12/31/2015 to 12/31/2016

Named Insured: **NEWTON CONSTRUCTION & MANAGEMENT INC
DBA NEWTON CONSTRUCTION & MANAGEMENT**

Agency Name: **PETERSON & GRANTHAM INS**

SCHEDULE OF FORMS AND ENDORSEMENTS

Form No.	Date	Title	Premium
AC0001	(10/13)	CHANGES IN COVERAGE FORMS - BUSINESS AUTO	
AC0102	(03/10)	BUSINESS AUTO EXTENSION ENDORSEMENT	
AC0143	(09/09)	CALIFORNIA CHANGES	
AC0305	(04/00)	CALIFORNIA CHANGES - WAIVER OF COLLISION DEDUCTIBLE	
AC0424	(04/06)	CALIFORNIA AUTO MEDICAL PAYMENT COVERAGE	
AC2154	(09/09)	CALIFORNIA UNINSURED MOTORISTS COVERAGE - BODILY INJURY	
AC9954	(04/05)	AMENDMENT OF COVERED AUTO SYMBOL 7	
CA0001	(03/10)	BUSINESS AUTO COVERAGE FORM	
CA0444	(03/10)	WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO U	
CA2001P	(03/06)	LESSOR - ADDITIONAL INSURED AND LOSS PAYEE	
CA2048	(02/99)	DESIGNATED INSURED	
CA2384	(01/06)	EXCLUSION OF TERRORISM	
GU207	(06/78)	BLANK ENDORSEMENT FORM	
IL0017	(11/98)	COMMON POLICY CONDITIONS	
IL0021	(07/02)	NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT	
IL0270	(09/12)	CALIFORNIA CHANGES - CANCELLATION AND NONRENEWAL	
13614	(11/85)	SPECIAL CONTINUATION PROVISION	

SCHEDULE OF IMPORTANT NOTICES

Form No.	Date	Title
IN0001	(06/05)	CONSUMER COMPLAINTS AND INFORMATION
IN0610	(01/04)	IMPORTANT NOTICE - AUTO BILL OF RIGHTS
IN5017	(05/93)	IMPORTANT NOTICE FOR RENEWAL POLICIES
IN5088	(04/99)	NOTICE OF INSURANCE INFORMATION PRACTICES (CA)
IN5134	(03/97)	EVIDENCE OF INSUR IS REQUIRED WITH REGISTR RENEWAL (CA)
IN5278	(12/13)	IMPORTANT NOTICE FAIR CREDIT REPORTING ACT
IN7165	(03/10)	BUSINESS AUTO EXTENSION ENDORSEMENT

PHSCHED (01-97)

DIRECT BILL EBL124

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AGENT COPY

ACP BA 7864308631

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WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

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