

**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES  
WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS  
(MORE THAN \$100,000)\***

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:  
Rincon Consultants, Inc.  
(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The services are generally described as follows:  
**Provide an Environmental Impact Report for the Carmel Rio Road Subdivision**

2. **PAYMENTS BY COUNTY.** County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$ 182,143.90.

3. **TERM OF AGREEMENT.** The term of this Agreement is from May 19, 2015 to May 19, 2017, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A Scope of Services/Payment Provisions**

**5. PERFORMANCE STANDARDS.**

5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.

5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

\*Approved by County Board of Supervisors on \_\_\_\_\_.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6. PAYMENT CONDITIONS.

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified, the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the County may require. The Contract Administrator or his or her designee shall certify the invoice; either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

## 7. TERMINATION.

7.01. During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

## 8. INDEMNIFICATION.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

8.02 Indemnification for Design Professional Services Claims:

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

8.03 Indemnification for All Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

9.0 INSURANCE.

9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's, Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Modification (Justification attached; subject to approval).

#### 9.04 Other Insurance Requirements.

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed

operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

## 10. RECORDS AND CONFIDENTIALITY.

- 10.01 Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.02 County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.03 Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

- 10.04 Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.05 Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.
11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations, which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.
12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.
13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability, which County may incur because of CONTRACTOR's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Dalia Mariscal-Martinez, Management Analyst II	Stephen Svete, AICP, Vice President
Name and Title	Name and Title
County of Monterey, Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901	Rincon Consultants, Inc. 180 North Ashwood Avenue Ventura, CA 93003
Address	Address
(831) 755-8966	(805) 644-4455
Phone	Phone

15. **MISCELLANEOUS PROVISIONS.**

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

**This space is left blank, intentionally.**



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

**COUNTY OF MONTEREY**

**CONTRACTOR**

By: \_\_\_\_\_  
Purchasing Officer

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

By: [Signature]  
Department Head (if applicable)

Date: 5/26/15

By: \_\_\_\_\_  
Board of Supervisors (if applicable)

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

Approved as to Form<sup>1</sup>

By: [Signature]  
County Counsel

Date: 5/13/15

Approved as to Fiscal Provisions<sup>2</sup>

By: [Signature]  
Auditor/Controller

Date: 4-30-15

Approved as to Liability Provisions<sup>3</sup>

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

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

Rincon Consultants, Inc.  
Contractor's Business Name\*

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

STEPHEN SVETE, VICE PRESIDENTS  
Name and Title

Date: 4-27-2015

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*  
Diane Under Pugh, CFO  
Name and Title

Date: 4/27/2015

County Board of Supervisors' Agreement Number: \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

<sup>1</sup>Approval by County Counsel is required for all Professional Service Agreements over \$100,000  
<sup>2</sup>Approval by Auditor/Controller is required for all Professional Service Agreements  
<sup>3</sup>Approval by Risk Management is required only if changes are made in paragraph 8 or 9

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### Carmel Rio Road Subdivision Environmental Impact Report (EIR)

In 2009, the Project Applicant submitted an application for a Combined Development Permit (CDP) (GPZ090004) that consisted of a Standard Subdivision for a forty-two (42) unit Project including thirty-one (31) Market Rate lots and one (1) Inclusionary Housing lot containing eleven (11) Inclusionary units (two (2) very low, five (5) low and four (4) moderate) on a 7.92 acre site at 26500 Val Verde Drive in Carmel Valley. The Project Applicant submitted their own Environmental Impact Report (EIR). County of Monterey (County) staff found that the environmental document lacked critical components to be considered adequate under the California Environmental Quality Act (CEQA), and the application was denied by the Planning Commission in 2012. Later that year, the Board of Supervisors (BOS) denied the appeal of the Planning Commission denial. Since the Project was ultimately denied, no environmental document was prepared by the County.

#### Scope of Work

- 1. Application Review/Project Scoping.** Under the direction of the County, Rincon Consultants, Inc. (Rincon) will review and become familiar with planning and environmental documentation, maps and other aspects of the Project, including, but not limited to, application materials submitted by the Project Applicant, and the applicable County policies, procedures, and ordinances. Rincon is aware of the basic provisions of the Settlement and Release Agreement between the Project Applicant and the County, including the following from Subsection 10.1:

*'The EIR consultant will be retained by the County to (a) review all existing technical documents listed in Exhibit C ("Previously Submitted Documents"), where feasible, and (b) procure such data and information as the consultant deems necessary ("New Documents") to expeditiously and competently prepare the necessary EIR for the Board's consideration within the Contract Processing Timeline. New documents required by the EIR consultant for the Amended Project shall not include any architectural design plans such as design elements and elevation of individual units.'*

The "Previously Submitted Documents" listed in Exhibit C of the Settlement and Release Agreement are:

- *Biological Assessment and Updated Biological Assessment by Rana Creek*
- *Bierman Hydrologic:*
  - *Hydrogeological Report*
  - *72-Hour Constant Rate Well Pumping, and Aquifer Recovery Test and Pumping Impact Assessment for Dyer Well by Bierman Hydrogeologic*
  - *Two (2), 8-Hour Constant Rate Well Pumping and Aquifer Recovery Tests with Pumping Impact Assessment for Travers & Gamboa Wells*
- *Archeological Report by Archaeological Consulting*
- *Historic Preservation Museum Interpretation by Kent L. Seavey*
- *Topographic Survey by Rasmussen Land Surveying*
- *Bestor Engineers Plans (site, utility, grading & erosion control, aerial)*
- *Geotechnical Engineering Report and Liquefaction Study by Buena Geotechnical Services, LLC*

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- *Will Serve Letter by Carmel Area Waste Water District*
- *Mapping and Soil Pesticide Testing by Earth Systems*
- *Siting, Design & Lighting by Ellsworth Associates Architect and or Jerrold Lomax, AIA*
- *Carmel Rio Road LLC Conceptual Site Plan by Design ARC Architecture & Interiors*
- *Val Verde Mutual Water company WWD Engineering:*
  - Exhibit A - Biernan Hydrogeologic Report*
  - Exhibit B - Engineer's Technical Report*
  - Exhibit C - Project Costs and Financial Capacity Study*
  - Exhibit D - Grant Deeds (Proof of Ownership)*
  - Exhibit E - Utility Site Plan - Val Verde Subdivision*
  - Exhibit F - Confirmed Water Rights*
  - Exhibit G - Organizational Chart*
  - Exhibit H - Description of Responsibilities*
  - Exhibit I - Licensing and Training*
  - Map -Val Verde Mutual Water Facilities Plan*
- *Preliminary Water Use Calculations by Anita Kane, Landscape Architect*
- *Val Verde Residential Development Traffic Study by Hexagon Traffic Consultants*
- *Subdivider's Statement with Enclosures:*
  - *Sub-dividers Statement*
  - *Project Consultants List*
  - *Statutory Local & State Wide Disclosures*
  - *Ownership Info*
  - *Legal Descriptions*
  - *Plat Map*
  - *Aerial Map*
- *CEQA Compliance Forms by Consultants covering:*
  - *Aesthetics*
  - *Agriculture Recourses*
  - *Air Quality*
  - *Biological Resources*
  - *Cultural Resources*
  - *Geology/Soils*
  - *Hazards & Hazardous Materials*
  - *Hydrology/Water Quality*
  - *Land Use/Planning*
  - *Mineral Resources*
  - *Noise*
  - *Population/Housing*
  - *Public Services*
  - *Recreation*
  - *Transportation/Traffic*
  - *Utilities/Service Systems*
  - *Mandatory Findings of Significance*
- *Monterey Peninsula Water Management District (MPWMD) related information:*
  - *Horan Legal Letter (Silkwood) to MPWMD (Ms. Stem), dated 3/10/06 re: Water Rights and Historical Amounts*
  - *DeLay & Laredo MPWMD legal counsel letter, dated 8/15/06 re: Historical Water Use Baseline for Alluvial Wells'*

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- *Clark letter to Ms. Stern, MPWMD, dated 2/19/11 re: Incomplete Water Distribution Application*
- *Recorded instruments:*
  - *Ownership deeds*
  - *Val Verde Easements*
- *Consistency Analysis of Val Verde Drive Sub-division with Draft 2007 Carmel Valley Master Plan File# GPZ090004 - March 2010*
- *Other:*
  - *Ten (10) CD's delivered to County Resource Management Agency (RMA) - Planning (Mr. Mike Novo) 4th quarter of 2013 contents of which are Carmel Rio Road consultant work products*
  - *Draft Environmental Impact by Carmel Rio Road (Volumes 1, 2 & 3)*

Rincon will be prepared to attend up to two (2) meetings with County staff to receive Project materials and discuss Project needs. Rincon will work with County staff to define the specific work program, confirm staff expectations, and define the level of detail required and the Project schedule.

2. **Notice of Preparation (NOP)/Scoping Meeting.** Rincon will be responsible for the preparation of the NOP in accordance with the requirements of CEQA Guidelines §15082. Rincon will provide an Administrative Draft copy of the NOP to the County for review and comment. Rincon will be responsible for incorporating County comments and finalizing the NOP. County staff will be responsible for distributing the NOP, receiving comments, and transmitting comments received to Rincon. During the course of the NOP comment period, Rincon will be responsible for conducting a Community Scoping Meeting.
3. **Field Trips.** Rincon will conduct field trips to the Project site to prepare an adequate site and/or environmental analysis in consultation with County RMA-Planning staff.
4. **Meetings/Conference Calls/Public Hearings**

County/Rincon Meeting Schedule

Bi-Weekly Conference Calls	One (1) hour every two (2) weeks
Community Scoping Meeting	Four (4) hours (location to be determined)
Review Administrative Draft EIR (ADEIR) Comments	Four (4) hours (at County office)
Administrative Final EIR (AFEIR) Comments	Four (4) hours (at County office)
Public Hearings – Planning Commission & BOS	Three (3) hours each for four (4) total meetings (twelve (12) hours total)

5. **Technical Report Peer Reviews.** Rincon will be responsible for conducting peer reviews of technical reports and supporting documentation submitted by the Project Applicant, as outlined in the Request for Proposals (RFP) for this Project. Rincon will provide peer review services of the technical reports, as applicable, that have been submitted to date including those previously submitted documents listed above, as appropriate.

Rincon's Scope of Work will clearly identify technical reports that will be peer-reviewed and which reports require updates to be applicable to the current Scope of Work, a detailed

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

description of peer review and additional services, including any potential sub-consultants that will be retained for each technical report.

6. **Technical Reports.** Rincon is in receipt of a number of technical reports transmitted by the County. Rincon's approach to the use of these will be to provide expert peer review and to incorporate accurate and useful data as needed. As such, these original reports will be referenced in the EIR document when they are sufficient for use. Rincon will conduct original research as necessary in a number of issue areas, including a new technical report for groundwater. The full scope of the original research is described below in Attachment A of this Exhibit A, Section B, *Technical Approach to EIR Topical Issue Areas*.

Groundwater. After review of pertinent groundwater-related technical reports and material, Todd Groundwater will prepare a brief Groundwater Supply Technical Report summarizing independent reviews of relevant reports. The technical report will include a summary of groundwater conditions and identify data gaps and potential unknowns related to the long-term supply sufficiency of the proposed Project. Todd Groundwater will rely on available information and analyses and will alert Rincon and the County if any significant data gaps or issues are identified. Rincon understands that water will be supplied by the on-site wells. The focus of the Technical Report will be the long-term sustainability of groundwater supply for the Project. Accordingly, the report will address proposed Project water demands relative to historical water demands. Establishment of a meaningful baseline is implicit, and Rincon anticipates working with the EIR team and MPWMD in setting a baseline. The standard for review will be consistency with General Plan Policies PS3-1 and PS-3.2; accordingly, the Technical Report will explicitly address proof of water supply. The Technical Report will also address potential impacts of the Project on groundwater and related surface water resources. The proposed supply wells will provide groundwater from the Carmel River alluvium (effectively tapping subterranean flows of an overdrafted system) with potential impacts on river flows. These impacts will be addressed and if warranted, monitoring and mitigation may be suggested. The Groundwater Supply Technical Report will be an appendix to the EIR and will contain information suitable for inclusion in the EIR.

- 6.1 **Prepare Administrative Draft Groundwater Supply Technical Report.** Todd Groundwater will prepare an administrative draft version of the Groundwater Supply Technical Report. The report will be submitted to Rincon for review. The text of the report will be concise and focused on relevant data. Graphics may be limited to a study area map. For purposes of costing, Todd Groundwater assumes submittal of an electronic version of the report.
- 6.2 **Prepare Public Draft Groundwater Supply Technical Report.** Todd Groundwater will address comments on the administrative draft and subsequently submit a draft report in electronic format to Rincon.
- 6.3 **Prepare Final Groundwater Supply Technical Report.** Todd Groundwater will address comments on the Public draft and deliver a final report to Rincon. The final report will be submitted electronically. Rincon's cost estimate assumes minimal comments on the Public draft report.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

7. **Required Documents.** Rincon will prepare a legally-sound EIR as required by State law. Rincon will deliver the documents to RMA-Planning in printed and electronic form as specified below. Rincon will submit all products in electronic form (PDF and/or Microsoft Word on a CD or flash drive). RMA-Planning staff will distribute the copies.

7.1 **Administrative Draft Project Description/Draft Project Description.** The Project Description will be submitted within one (1) week of the kick-off meeting and receipt of all relevant descriptive information regarding the Project.

7.2 **Prepare ADEIR.** Rincon will prepare an ADEIR for County staff review, in accordance with the *State CEQA Guidelines*, which set the standards for adequacy of an EIR. The ADEIR will focus on those environmental factors for which potentially significant impacts may result. Based on the overall Project impacts, a series of mitigation measures will be developed and/or modified from the previous Draft EIR (DEIR). This task includes the following:

Executive Summary. The EIR will contain a summary of the proposed Project and associated environmental consequences. This information will be presented in tabular format to simplify review by decision-makers and the general Public. This section will:

- *Summarize the Project Description and list the alternatives studied in the EIR*
- *Identify each potential environmental impact*
- *Identify the level of significance of each impact*
- *List the mitigation measures required for each potentially significant impact*
- *Identify residual impacts after mitigation*

The summary will note areas of known controversy and will identify the environmentally superior alternative and the rationale for its selection as such.

Introduction and Environmental Setting. The EIR will provide introductory sections (required by CEQA) that lay the groundwork for and summarize the substantive analysis to follow. The introduction will describe the purpose and legal authority of the study, and provide a discussion of lead, responsible, and trustee agencies. The environmental setting will provide a general description of the existing geographic character of the general region, the site and immediate surroundings, as well as describing planned and pending development in the area.

Environmental Impact Analysis. Each environmental issue addressed in the EIR will have four (4) main subsections:

- *Setting*
- *Impact analysis*
- *Mitigation measures*
- *Level of significance after mitigation*

The setting will be based on existing data sources, including available technical studies, the General Plan, and other recent EIRs with relevant data. Where possible and warranted, impacts will be quantified. If existing data does not allow definitive

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

quantification, reasonable assumptions will be used to qualitatively forecast potential impacts. Cumulative impacts will be discussed within this analysis, but at a lesser level of detail than the analysis of Project-specific impacts. All mitigation measures will be presented in wording that can be directly applied to conditions of approval and will include monitoring requirements.

### Alternatives.

A range of alternatives not to exceed four (4) will be analyzed that could feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project pursuant to CEQA *Guidelines* Section 15126.6. At a minimum, the EIR will include the following alternatives:

1. A Rincon/County staff modified design alternative (thirty-one (31) units on seven (7) lots). This alternative will include on-site recreational facilities.
2. Two (2) reduced-density design alternatives for the purpose of reducing one (1) or more of the cumulative impacts:
  - a. No Zoning Code Amendment. Without the Zoning Ordinance Amendment, the Project Applicant would be allowed a maximum of twenty-eight (28) units on the site: seven (7) lots with a minimum one (1) acre and a maximum of four (4) units per lot.
  - b. Base Zoning. The underlying density (without applying CV-1.10) is one (1) dwelling unit per acre (seven (7) units), which requires 1.75 affordable units to meet inclusionary requirements (pursuant to General Plan Policy LU 2.13).
  - c. Density Bonus. Applying a density bonus to the underlying density would allow nine (9) units.
3. One (1) of the above alternatives may include or be replaced by a Project similar to the proposed Project but with a different water supply source than the proposed Project.
4. A "No Project" alternative (no subdivision, three (3) existing legal lots, two (2) new homes).

A discussion of the feasibility of an alternative site in Carmel Valley will be included.

Other alternatives may be presented by County staff or Rincon, in consultation with the Project Applicant to determine feasibility.

### Other CEQA-Required Sections

The EIR will include other sections required by the CEQA *Guidelines*, including growth-inducing impacts and irreversible effects.

Rincon will deliver eight (8) printed copies and one (1) electronic copy of the ADEIR to the County.

- 7.3 Prepare DEIR.** Rincon will revise the ADEIR based on comments provided by the County. Rincon will be responsible for preparing a Screencheck DEIR for review and approval prior to Public circulation. The County will provide final written comments, if necessary, on the Screencheck DEIR. Rincon will incorporate all final comments and

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

prepare the Public-review DEIR for distribution. Rincon will prepare all associated notices as part of this task, including the Notice of Completion (NOC) and Notice of Availability (NOA). The County will be responsible for distribution of the EIR.

Rincon will provide twenty-five (25) printed, bound copies, one (1) unbound print-ready copy, and one (1) electronic copy on a CD or flash drive (PDF and Microsoft Word format) to the County. Additionally, one (1) electronic copy on a CD (Microsoft Word format) of the NOC and the NOA will be provided. In addition, a DVD disk of the DEIR in HTML web-ready format for posting on the County website will be provided. Operational links, electronic copies, or hard copies, to/of all documents and reports used in preparing the DEIR will be included.

- 7.4 **AFEIR.** Upon conclusion of the Public review period, Rincon will prepare an AFEIR that addresses Public comments received on the DEIR. All Public comments will be codified and responses will be provided in accordance with the requirements of CEQA. The AFEIR will consist of revisions to the EIR text, as necessary; a list of individuals and agencies commenting on the DEIR; copies of letters received on the DEIR; and written responses to comments received during the Public review period. The Final EIR (FEIR) will be prepared in accordance with the requirements of CEQA Guidelines §15132 and applicable County requirements. The County will review and comment on the AFEIR.

Rincon will provide eight (8) printed copies and one (1) electronic copy on a CD (Microsoft Word format) to the County.

- 7.5 **FEIR & Mitigation Monitoring and Reporting Program (MMRP).** Based on comments received on the AFEIR, Rincon will revise the FEIR and incorporate revisions, as appropriate. Subsequently, Rincon will provide the County with a Screencheck FEIR for final review. Based on any comments received on the Screencheck FEIR, Rincon will finalize the FEIR for production. The County will provide all commenting agencies and decision-makers with copies of the FEIR at least ten (10) days prior to any Public hearing certifying the EIR. This document, together with the DEIR, will constitute the FEIR. As part of this task, Rincon will also prepare a MMRP. The MMRP will identify responsibility, timing, funding, and reporting of mitigation measures identified in the EIR. The MMRP will be prepared in accordance with the County's format. Rincon will also be responsible for preparing the Notice of Determination (NOD) as part of this task.

Rincon will provide twenty-five (25) printed, bound copies, one (1) unbound print-ready copy, and one (1) electronic copy on a CD or flash drive (PDF and Microsoft Word format) of the FEIR, including the MMRP, to the County. Additionally, one (1) electronic copy on a CD (Microsoft Word format) of the NOD will be provided. In addition, a DVD disk of the FEIR in HTML web-ready format for posting on the County website will be provided. Operational links, electronic copies, or hard copies, to/of all documents and reports used in preparing the FEIR will be included.



## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- 7.6 **CEQA Findings (OPTIONAL TASK).** Rincon is available to prepare the CEQA findings for the Project. CEQA Guidelines §15091 requires that no Public agency approve or carry out a Project, for which an EIR has been completed and identifies one (1) or more significant effects, unless the Public agency prepares findings for each significant effect. The findings would include information related to whether those significant impacts identified in the EIR will be reduced to below a level of significance by mitigation measures identified in the EIR. CEQA Guidelines §15093 requires that when an agency approves a project that will have a significant adverse environmental effect that is unavoidable, the agency must make a Statement of Overriding Considerations. If a significant and unavoidable impact is identified in the EIR, Rincon will prepare a Statement of Overriding Considerations. Rincon will provide an administrative draft of the CEQA findings to the County for review and comment.

OPTIONAL TASK (above) shall not be provided unless authorized in writing by the County's Project Planner and the Project Applicant prior to optional services being provided.

If optional task is provided, Rincon will provide one (1) electronic copy on a CD (Microsoft Word format) of the CEQA findings to the County.

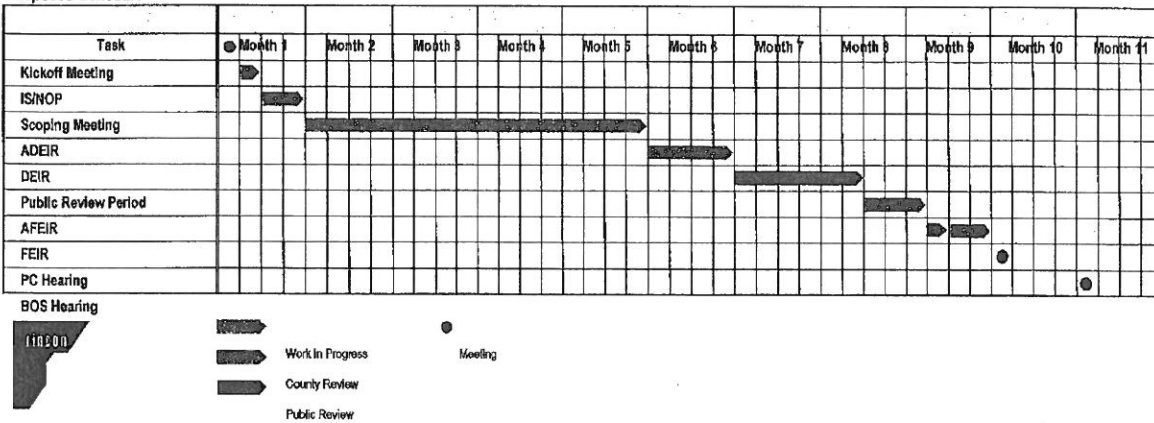
8. **Public Hearings.** Rincon's Project Manager will attend three (3) Public hearings, or twelve (12) hours of formal meeting time, to assist in the decision-maker deliberation process. Additional hearings can be added on a time and materials basis.
9. **Project Management.** Rincon will provide Project management at several professional levels to ensure that analysis, communications between client and consultant team members, and incidental professional activity related to the completion of the CEQA process is ensured. Level of effort for this task is illustrated in the Cost Estimate.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### Project Schedule

County of Monterey  
Carmel Rio Road Subdivision EIR

*Proposed Schedule*



### Cost Proposal

Rincon will prepare the EIR for the Carmel Rio Road Subdivision Project, in accordance with the proposed Scope of Work, for an estimated cost of **\$158,386**, inclusive of the Optional Task. The Project will be billed on a time and materials basis, not to be exceeded without written authorization from the County for usage of Contingency funds for any overage in costs for a defined task or by amendment for new tasks not currently defined. A detailed cost breakdown is provided below.

**EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**

**Carmel Rio Road Subdivision EIR  
County of Monterey**

Cost Estimate	Cost	Hours	Rincon Consultants				
			Principal	PM/ Sen. Supervising	Environmental Scientist III	Graphics	Admin
Tasks			\$160/hour	\$150/hour	\$105/hour	\$70/hour	\$55/hour
1. Application Review/Project Scoping	\$3,550	26	2	18	4		2
2. Notice of Preparation/Scoping Meeting	\$2,160	20		6	8	6	
3. Field Trips	\$4,780	40	2	12	24	2	0
4. Meetings/Conference Calls	\$6,380	48	8	20	20		
5. Technical Report Peer Reviews	\$8,700	68	10	24	32	2	
6. Technical Reports (groundwater, traffic: see Add'l Costs)							
7. Required Documents							
7.1 Administrative Draft Project Description							
7.2 Prepare Administrative Draft EIR (ADEIR)							
Executive Summary	\$930	8		2	6		
Introduction/Environmental Setting	\$570	5		1	4		
Environmental Impact Analysis							
Aesthetics/Visual Resources (Rincon labor only)	\$2,230	20	6	4		8	2
Air Quality	\$2,750	26		2	22	2	
Biological Resources	\$3,400	33	1	2	24	6	
Climate Change	\$3,510	30		8	22		
Cultural Resources	\$1,860	17	1	2	12	2	
Geology and Soils	\$3,200	28	4	4	16	4	
Hydrology and Water Quality (Rincon labor only)	\$1,500	12	2	6		4	
Land Use and Planning	\$3,640	24	4	20			
Noise	\$4,240	40		4	32	4	
Population and Housing	\$2,280	20		4	16		
Public Services	\$2,700	26		4	16	6	
Recreation	\$1,690	17		1	12	4	
Traffic and Circulation (Rincon labor only)	\$1,320	12		6		6	
Utilities and Service Systems	\$3,280	29	1	4	24		
Effects found Less than Significant	\$1,140	10		2	8		
Alternatives (4)	\$6,700	62	2	8	44	8	
Other CEQA-Required Sections	\$850	9		1	4	4	
7.3 Prepare Draft EIR (DEIR)	\$1,660	22		2	4	4	12
Noticing: NOC, NOA	\$570	5		1	4		
Draft Responses to Comments (Estimate)	\$6,920	60	4	12	40	4	
7.4 Administrative Final EIR	\$1,520	16		4	4	4	4
7.5 Final EIR & Mitigation Monitoring and Reporting Program	\$2,900	29	1	6	12	2	8
7.6 OPTIONAL TASK: CEQA Findings and Statement of O.C.	\$4,000	26	10	16			
8. Public Hearings	\$2,120	14	2	12			
9. Project Management	\$7,700	58	12	30	8		8
<b>Subtotal Labor</b>	<b>\$100,750</b>	<b>860</b>	<b>72</b>	<b>248</b>	<b>422</b>	<b>82</b>	<b>36</b>
<b>Additional Costs</b>							
Pinnacle Traffic Engineering (Traffic Peer Review)	\$6,675						
Balance Hydrologics (Hydrology)	\$20,182						
Todd Groundwater (Groundwater Report)	\$16,960						
Printing:							
ADEIR (8 hard copies, 1 CD)	\$295						
DEIR (26 hard copies, 1 CD)	\$925						
AFEIR (8 hard copies, 1 CD)	\$295						
FEIR (26 hard copies, 1 CD)	\$925						
Supplies and Miscellaneous Expenses	\$3,861						
General & Administrative	\$7,518						
<b>Subtotal Additional Costs:</b>	<b>\$57,636</b>						
<b>TOTAL LABOR + ADDITIONAL COSTS including Optional Task 7.6</b>	<b>\$158,386</b>						

The proposed Scope of Work and associated costs are fully negotiable to meet the needs of the County. Additional work, not included within Rincon's proposed work program, will be completed only upon written County authorization and amended into the Agreement in accordance with Rincon's standard fee schedule (as approved in Request for Qualifications

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

(RFQ) #10403, Environmental Consultant Services). The County gives Rincon the express permission to use and modify any image, map, or other graphic provided by the Project Applicant or Project Applicant's subcontractors or subconsultants for use in developing graphics for the EIR.

Optional Task described in Exhibit A - Scope of Services/Payment Provisions of this Agreement shall not be provided unless authorized in writing by the County's Project Planner and the Project Applicant prior to Optional Task being provided.

**EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**

**PAYMENT PROVISIONS**

Invoices for work products / deliverables under the AGREEMENT shall be submitted monthly (by the tenth day of the month) on a time and materials basis for a “not to exceed” amount as listed below. The invoice should identify the document or work product being delivered. All invoices shall include the following:

**1. Invoice Coversheet**

**Rincon Consultants, Inc.**  
**Carmel Rio Road Subdivision Project Environmental Impact Report**

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

Invoice No. \_\_\_\_\_

Agreement Term: May 19, 2015 through May 19, 2017

Agreement Amount: \$ 182,143.90 (\$158,386.00 base budget plus \$23,757.90 project contingency)

This Invoice:	1.	\$3,550.00	<b>Application Review/Project Scoping</b>	
	2.	\$2,160.00	<b>Notice of Preparation/Scoping Meeting</b>	
	3.	\$4,780.00	<b>Field Trips</b>	
	4.	\$6,380.00	<b>Meetings/Conference Calls/Public Hearings</b>	
	5.	\$8,700.00	<b>Technical Report Peer Reviews</b>	
	6.	\$0.00	<b>Technical Reports (Groundwater, Traffic; see Additional Costs)</b>	
	7.	\$0.00	<b>Required Documents</b>	
	7.1.	\$0.00	<b>Administrative Draft Project Description</b>	
	7.2	\$0.00	<b>Prepare Administrative Draft EIR (ADEIR)</b>	
		\$930.00	<b>Executive Summary</b>	
		\$570.00	<b>Introduction/Environmental Setting</b>	
		\$0.00	<b>Environmental Impact Analysis</b>	
		\$2,230.00	<b>-Aesthetics/Visual Resources (Rincon labor only)</b>	
		\$2,750.00	<b>-Air Quality</b>	
		\$3,400.00	<b>-Biological Resources</b>	
		\$3,510.00	<b>-Climate Change</b>	
		\$1,860.00	<b>-Cultural Resources</b>	
		\$3,200.00	<b>-Geology and Soils</b>	
		\$1,500.00	<b>-Hydrology and Water Quality (Rincon labor only)</b>	
		\$3,640.00	<b>-Land Use and Planning</b>	
		\$4,240.00	<b>-Noise</b>	
		\$2,280.00	<b>-Population and Housing</b>	
		\$2,700.00	<b>-Public Services</b>	
		\$1,690.00	<b>-Recreation</b>	
		\$1,320.00	<b>-Traffic and Circulation (Rincon labor only)</b>	

**EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**

	\$3,280.00	-Utilities and Service Systems	_____
	\$1,140.00	-Effects found Less than Significant	_____
	\$6,700.00	-Alternatives (4)	_____
	\$850.00	-Other CEQA-Required Sections	_____
7.3	\$1,660.00	Prepare Draft EIR (DEIR)	_____
	\$570.00	Noticing, NOC, NOA	_____
	\$6,920.00	Draft Responses to Comments (Estimate)	_____
7.4	\$1,520.00	Administrative Final EIR (AFEIR)	_____
7.5	\$2,900.00	Final EIR & Mitigation Monitoring and Reporting Program	_____
7.6	\$4,000.00	OPTIONAL TASK: CEQA Findings and Statement of Overriding Conditions	_____
8.	\$2,120.00	<b>Public Hearings</b>	_____
9.	\$7,700.00	<b>Project Management</b>	_____
		<b><u>ADDITIONAL COSTS</u></b>	_____
	\$6,675.00	Pinnacle Traffic Engineering (Traffic)	_____
	\$20,182.00	Balance Hydrologics (Hydrology)	_____
	\$16,960.00	Todd Groundwater (Groundwater Report)	_____
		<b><u>PRINTING/MISCELLANEOUS</u></b>	_____
	\$295.00	ADEIR (8 hard copies, 1 CD)	_____
	\$925.00	DEIR (26 hard copies, 1 CD)	_____
	\$295.00	AFEIR (8 hard copies, 1 CD)	_____
	\$925.00	FEIR (26 hard copies, 1 CD)	_____
	\$3,861.00	Supplies and Miscellaneous Expenses	_____
	\$7,518.00	General & Administrative	_____
<b>GRAND TOTAL:</b>			<b>\$158,386.00</b>

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

Approved as to Work/Payment: \_\_\_\_\_  
 Bob J. Schubert, Senior Planner Date

All Invoices Are To Be Sent To:  
 Diana Lemos, Account Clerk  
 County of Monterey Resource Management Agency  
 Finance Division  
 168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA 93901  
 Telephone: (831) 755-5220

**2. Invoice Detail**

Each invoice for services/work products/deliverables performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by the CONTRACTOR and within the "Not to Exceed" budget allocated for the service.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The Project Planner may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the Subconsultant costs. The information will be used to complete the file and to ensure proper payment for work products/deliverables/services.

### 3. **Transfer from Project Contingency Account**

Transfer of funding from the Project Contingency Account (total contingency of \$23,757.90) requires the prior written approval of the Director of Planning and the Project Applicant.

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

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

Within five (5) working days of receipt of the recommendation, the Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the Director of Planning, or in the Director's absence, designee. Within ten (10) working days thereafter, the Director of Planning or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant, and CONTRACTOR.

Unless the recommended transfer is denied by the Director or designee, the Director of Planning or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

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

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**SECTION B:**

**Technical Approach to EIR Topical Issue Areas**

The Scope of Work for the environmental and land use issues to be examined during the environmental review process is based upon the RFP. The following issue areas will be analyzed in the EIR:

- *Aesthetics/Visual Resources*
- *Air Quality*
- *Biological Resources*
- *Climate Change*
- *Cultural Resources*
- *Geology and Soils*
- *Hazards/Hazardous Materials*
- *Hydrology and Water Quality*
- *Land Use and Planning*
- *Noise*
- *Population and Housing*
- *Public Services*
- *Recreation*
- *Traffic and Circulation*
- *Utilities and Service Systems*

This list would be confirmed as the analysis progresses and in consultation with County staff.

**Aesthetics.** The site is relatively flat and is presently developed with a single-family residence and barn, both of which are located in the southeast corner of the site. Several mature trees (cypress, live oaks, others) are located in the vicinity of the house and barn, while the remainder of the site is clear of trees or other mature landscaping and is used for seasonal agriculture. Existing land uses on surrounding properties are the following: single-family detached residential and undeveloped/seasonal agricultural parcels immediately to the north; undeveloped property to the east, across Val Verde Drive; single-family residential immediately to the south of the Project site with higher-density attached/townhouse residential further to the south, across Rio Road. Properties immediately west of the site are developed with office and commercial uses of a more intensive suburban scale.

The EIR will include an evaluation of potential impacts to aesthetics based on the setting of the Project, including impacts as viewed from Public roads (including Carmel Valley Road and Highway 1) and nearby residences.

**Air Quality.** The Monterey Bay Unified Air Pollution Control District (MBUAPCD) has prepared an Air Quality Management Plan (AQMP) for the Monterey Bay Region. The AQMP addresses the attainment and maintenance of State and Federal ambient air quality standards within the North Central Coast Air Basin (NCCAB). Consistency with the AQMP is an indication of a Project's cumulative adverse impact on regional air quality (ozone levels). It is



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not an indication of Project-specific impacts, which are evaluated according to the MBUAPCD's adopted thresholds of significance.

The development on the Project site for detached and attached residential units must be in accordance with the Association of Monterey Bay Area Governments (AMBAG) population projections, which is accommodated in the AQMP. Consistency of a residential project is determined by comparing the project population at the year of project completion with the population forecast for the appropriate five (5) year increment that is listed in the AQMP. If the population increase resulting from the project would not cause the estimated cumulative population to exceed the relevant forecast, the project would be consistent with the population forecasts in the AQMP.

The CEQA Air Quality Guidelines outline a threshold for construction activities with potentially significant impacts for Particulate Matter less than 10 microns in size (PM<sup>10</sup>) to be 2.2 acres of disturbance per day. Adherence to this standard must be evaluated.

The Project will be expected to meet the goals of the Open Space Element Section OS-10 (Air Quality) as designated in the Monterey County General Plan.

The EIR will include an evaluation of potential impacts to air quality based on the results of the traffic impact analysis and consultation with resource agencies. Mitigation measures will be identified, if needed to reduce impacts on air quality to less than significant.

**Biological Resources.** The site is relatively flat and is presently developed with a single-family residence and barn, both of which are located in the southeast corner of the site. Several mature trees (cypress, live oaks, others) are located in the vicinity of the house and barn, while the remainder of the site is clear of trees or other mature landscaping and is used for seasonal agriculture.

The EIR will include an evaluation of potential impacts to biological resources based on the results of the Project Applicant's technical reports (Biological Assessment and Updated Biological Assessment by Rana Creek), peer review of those reports and consultation with resource agencies. In addition, this assessment needs to evaluate biological impacts from using well water and any effects of drawing water from the over-drafted Carmel River. Mitigation measures will be identified, if necessary.

**Balance Hydrologics, Inc.** (Balance) habitat hydrologists (both surface and groundwater) will provide limited consultation to Rincon biologists; in particular Balance will assist with extracting pertinent information relevant to the groundwater study and drainage study. In particular, Balance will provide feedback concerning how the proposed Project may affect groundwater levels, both generally, and for specific year types.

**Climate Change.** The analysis of greenhouses gases (GHGs) and climate change will discuss the general nature and sources of climate change, current efforts to regulate GHGs (including recent Office of Planning and Research publications and guidelines relating to how climate change should be addressed in CEQA documents), and the proposed Project's potential

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contribution to this cumulative issue. The MBUAPCD has not formally adopted thresholds to evaluate GHG emissions, but recommends using the San Luis Obispo County Air Pollution Control District (SLOAPCD) thresholds. Using the calculations results from CalEEMod, Rincon will compare Project emissions to these thresholds and prepare a GHG section that focuses on the impacts of the proposed Project on climate change, as well as the impacts of climate change on the Project region.

**Cultural Resources.** Two (2) reports were prepared for the site (report by Archaeological Consulting in 2007 and report by Kent Seavey in 2010). The EIR will include an evaluation of potential impacts to cultural resources based on the results of the Project Applicant's technical reports, peer review of those reports and consultation with resource agencies. Mitigation measures will be identified, if necessary.

**Geology and Soils.** A geotechnical report was prepared for the site (Geotechnical Engineering Report and Liquefaction Study by Buena Geotechnical Services, LLC). The site is located within a highly seismically active region. The Project will be expected to meet the goals of the Conservation and Open Space Element Section OS-3 (Soils) and Safety Element Section S-1 (Seismic and Other Geologic Hazards) as designated in the Monterey County General Plan.

The EIR will include an evaluation of potential geology/soils impacts based on the results of the Project Applicant's technical report, peer review of that report and consultation with resource agencies. Mitigation measures will be identified, if necessary.

**Hazards/Hazardous Materials.** The Scope of Work will not include use of hazardous materials that would constitute a threat of explosion or other significant release that would pose a threat to neighboring properties. The site location is not included on any list of hazardous materials sites; however, County staff is aware of an underground plume that may affect the site with Methyl Tertiary Butyl Ether (MTBE). These issues will be discussed in the analysis. No additional impacts, or additional analysis, are anticipated regarding this matter.

**Hydrology and Water Quality.** As set forth in General Plan Policies PS-3.9 and PS-3.13 (Water Yield and Quality), a tentative subdivision map will not be approved until the Project Applicant provides evidence of a long-term sustainable water supply in terms of yield and quality for all lots that are to be created through subdivision. This Project requires a water system which has two (2) water sources that meet all of the required regulations. The Environmental Health Bureau (EHB) has requested additional information regarding water quality and quantity before the application can be deemed complete according to the memorandum from EHB dated February 24, 2014.

As set forth in General Plan Policies PS-3.1 and PS-3.2 (Long Term Sustainable Water Supply), development will be prohibited without proof, based upon specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development. The Project Applicant has submitted several documents addressing water quality and quantity (including the reports from Bierman Hydrogeologic, WWD Engineering and Anita Kane). The EIR will establish an appropriate baseline and available water use in consultation with the MPWMD, and include an evaluation of potential impacts to

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TO  
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hydrology/water quality based on the results of the Project Applicant's technical reports, peer review of those reports and consultation with resource agencies. Mitigation measures will be identified, if necessary.

County staff has requested the Project Applicant to submit a preliminary drainage plan as part of the tentative subdivision map. Compliance with the County's new storm water requirements may require changes to the site plan (e.g., if an on-site storm water retention pond is required). The Project is located within the 100-year floodplain of the Carmel River. It is also located in an urbanized area for purposes of National Pollutant Discharge Elimination System (NPDES) implementation. An appropriate baseline for runoff should be established to assess retention requirements and how said design impacts wells as the potable water source.

Balance will provide senior peer review of the Hydrology and Water Quality section for the EIR. Balance's work plan is as follows:

*Prepare Preliminary Stormwater Management Plan.* The compiled information will be further reviewed and augmented with necessary hydrologic calculations to prepare a Preliminary Stormwater Management Plan summarizing the regulatory setting, existing conditions, and pertinent environmental issues related to drainage, flood control, and water quality.

Conversion of the site is not expected to create significant increases in peak stormwater flow rates or volumes if appropriately managed. However, the Project will require an entirely new storm drainage system and will need to show that the changes in drainage patterns do not engender adverse impacts. This will be particularly important at the post-Project storm drain outlet locations where changes in the contributing drainage area and the conveyance infrastructure could potentially lead to changes in the quantity and timing of runoff.

Rincon's understanding is that a detailed drainage and stormwater management plan for the site will likely not be available at this point. However, Balance staff has extensive experience with site conversion and high-density land use projects and workable measures that can be incorporated into a state-of-the-art stormwater management strategy. Specific Best Management Practices (BMPs) and performance standards will be identified at a general level of detail, including those measures that will need to be included in the construction-phase Storm Water Pollution Prevention Plan (SWPPP) and the post-construction Storm Water Management Plan (SWMP). However, impacts to groundwater will not be directly assessed by Balance as Rincon understands those issues will be addressed by others.

A portion of the site is presently located in a Federal Emergency Management Agency (FEMA) Special Flood Hazard Area and protection of the Project from flood hazards will be an important element of the development plan. Balance staff will review pertinent documents in this regard in order to describe how the Project location is impacted by flooding and how the flood risk may be changing due to ongoing flood control activities along the Carmel River. If the flood hazard documentation provided by the Project Applicant is found to be inadequate for purposes of analysis, Balance will either request that the proponents provide additional information, or conduct the supplemental analyses on a time-and-materials basis.

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Balance will also review the County's stormwater management plans and requirements in light of changing requirements from the Central Coast Regional Water Quality Control Board (CCRWQCB). The requirements for stormwater management BMPs during construction and afterward will be an important constraint that must be addressed given the state of current regulations.

*Project Initiation.* Balance staff will carry out one (1) reconnaissance visit to the Project site and vicinity to observe existing conditions related to drainage pathways and patterns, soils and existing water quality infrastructure. Balance will review the available site-specific information and collect necessary data to prepare the preliminary stormwater management plan. Balance will also coordinate with the County's RMA -Public Works staff, regarding any existing constraints in the local storm drain systems.

*Project management and meetings.* Balance has allowed budget for general Project management needs.

*Land Use and Planning.* The Project's requested entitlements will be consistent with the requirements of Monterey County Zoning Code (Title 21). Consistency with the 2010 Monterey County General Plan Land Use Element (Section 1.0) must be ensured, with particular attention to the Goals listed within LU-1 (General Land Use), LU-2 (Residential) and LU-8 (Open Space).

Consistency with the Carmel Valley Master Plan (CVMP) is also of key importance. As set forth in Policy CV-1.6 of the CVMP, residential subdivision in Carmel Valley is limited to the creation of one hundred ninety (190) new units. Of the one hundred ninety (190) new units, twenty-four (24) are reserved for the Delfino property. There are several other subdivisions in Carmel Valley with complete applications containing units that exceed the Carmel Valley buildout potential (i.e., one hundred ninety (190) new units).

The CDP application has been submitted pursuant to Policy CV-1.10 of the CVMP which states that a density of up to four (4) units/acre on the subject property may be allowed provided that at least twenty-five percent (25%) of the units are developed for individuals of low and moderate income or for workforce housing.

The Project site is in the Low Density Residential Zoning District, with a minimum lot size of one (1) acre per dwelling unit (LDR/1). The site is also included in the Design Control (D), Site Plan Review (S) and Residential Allocation Zoning District overlays (RAZ); therefore, the site's full zoning designation is expressed as LDR/1-D-S-RAZ. The Project Applicant has requested an amendment of Section 21.14.050 of the Zoning Ordinance by adding a clarification that allows an exception to exceed four (4) units/acre on a lot if it is done to achieve affordable housing pursuant to Policy CV 1.10 in the CVMP. Policy CV-1.10 requires the Project to provide at least twenty-five percent (25%) affordable units (including workforce housing), and the inclusionary requirement establishes ratios required for twenty percent (20%) of the units.

Rincon will conduct an assessment of the Project's consistency with Monterey County General Plan and CVMP policies. The Consistency Analysis will be included as an Appendix in the EIR. The Consistency Analysis will analyze whether the Project is consistent as designed, as conditioned or mitigated, is inconsistent, or the policy does not apply to the Project.

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The issue of water supply will be cross-referenced in this section as well, using information from the Todd Groundwater report and other sources.

**Noise.** Noise analysis will typically include evaluations of temporary impacts associated with construction and long-term impacts associated with Project operation. Operational impacts may include both increased noise due to the proposed Project (typically, due to traffic increases or stationary noise sources) and/or exposure of new sensitive uses to high ambient levels (most typically a concern for new noise-sensitive uses such as residences and schools adjacent to noisy roadways or commercial/industrial facilities). The criteria used to determine the significance of any impacts will be from the County's Noise Element and ordinances and from other published metrics as necessary (Environmental Protection Agency (EPA), Federal Highway Administration (FHWA) etc.). Rincon will verify noise levels on-site and at nearby sensitive receptors with field measurements.

Temporary noise impacts associated with construction will typically be estimated based upon typical noise levels reported by the United States (US) EPA and standard noise attenuation factors. Noise levels associated with construction activities will be quantified and projected at sensitive use areas and compared to County standards.

Mitigation requirements will be identified, if necessary. Mitigation measures may include restrictions on construction equipment use, the construction of temporary sound barriers, recommendations for the re-routing of traffic, and the use of noise attenuation features and sound barriers to reduce traffic noise levels.

**Population and Housing.** The Project proposes the construction of thirty-one (31) housing units, including twenty-four (24) market rate, single-family detached residences and seven (7) attached inclusionary units. As such, the Project is expected to provide a local population increase. The Project is not expected to create a demand for additional housing. The Project will be expected to meet the goals of the Housing Element Section 5.2 (Assist in the Development of Housing) as designated in the Monterey County General Plan.

The EIR will include an evaluation of potential impacts to population/housing based on the Project Description and consultation with resource agencies. Mitigation measures will be identified, if necessary.

**Public Services.** The Project consists of the construction of thirty-one (31) housing units which will be served by the Cypress Fire Protection District (CFPD) and the Monterey County Sheriff's Department. The CFPD has provided preliminary comments on the Project and has indicated that fire hydrant(s) on the site must be connected to the existing Cal Am water line located in Val Verde Drive. In addition, the proposed Project is expected to generate additional attendance at local schools. Additional usage of other local Public services, including hospitals and libraries is also anticipated.

The EIR will include an evaluation of potential impacts to Public services based on the Project Description and consultation with service companies and agencies. Mitigation measures will be identified, if necessary.

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**Recreation.** The Project does not currently propose the construction of any on-site recreational facilities. The EIR will include an evaluation of potential impacts to recreational facilities, and the potential benefits of on-site recreational facilities, particularly on the inclusionary parcel, based on the Project plans and description and consultation with relevant agencies. Mitigation measures will be identified, if necessary.

**Traffic and Circulation.** With the proposed construction of thirty-one (31) housing units, the Project is expected to generate additional vehicle trips within the immediate Project area. Additional usage on public transit, primarily buses (both Public transit and school buses), will also likely result from the Project. The Project will be expected to meet the goals of the General Plan Transportation Element (Section 2.0), particularly as designed within the policies of and goals in Sections C-1 (Level of Service), C-2 (Transportation Facilities), C-3 (Road and Highway Transportation), C-6 (Public Transit Services) and C-9 (Bicycle Transportation), as well as policies contained in Section 2.0 (Circulation) of the CVMP. Traffic impacts may be significant since the Project will add traffic to Segment 7 on Highway 1 which is currently at Level of Service (LOS) F during the PM peak hour.

With the understanding that Rincon will be provided a traffic study prepared directly for the Project Applicant by a traffic consultant selected by the Project Applicant, this Scope of Work includes a peer review of that study by Pinnacle Traffic Engineering, per County request. The Scope of Work for the peer review will be as follows:

*Review Existing Conditions:* This task involves verifying all existing intersection and roadway conditions (ie: number of lanes, traffic control devices, etc). The new peak hour traffic count data will also be reviewed and compared to historical data where available. Consultation with County and Caltrans staff will also be conducted regarding signal phasing and timing.

*Review Project Trip Generation Estimates:* The Project trip generation estimates and assignment of Project trip to the study street system will be reviewed to verify validity. The percent contribution of Project trips to future cumulative traffic projections will also be reviewed for traffic impact fee purposes if necessary.

*Review Background and Cumulative Traffic Projections:* This task includes a review of the background (approved and pending) Projects list and related traffic projections at the study intersections and roadway segments. A review of the cumulative (2035) traffic projection data will also be conducted and compared to the latest AMBAG Regional Travel Demand Model (RTDM) data.

*Review Level of Service (LOS) Calculations:* This task includes a detailed review of the study intersection (8) and roadway segment (9) LOS calculations. The review will verify peak hour traffic volumes and coding of intersection/roadway LOS parameters (number of lanes, traffic control, signal phasing and timing, etc.). The review will be limited to the “existing”, “existing plus Project,” and “cumulative plus Project” study scenarios. The review of LOS calculations will also be performed for any required mitigation measures, as deemed necessary to fully identify the potential impacts associated with the Project. A brief overview of the

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analysis of impacts to other transportation modes (pedestrian, bicycle and transit) will also be provided.

*Prepare Peer Review Memorandum:* A brief memorandum will be prepared to present the findings of the peer review. Information in the memorandum may be used to make revisions to the traffic study and/or incorporated into the EIR. This task also includes a review of any appropriate response to comment material submitted by Hatch Mott MacDonald, LLC (HMM) on the draft Peer Review Report.

This Scope of Work includes coordination with Rincon and County, Caltrans and AMBAG staff, as needed. The Project will be discussed with these Public agency representatives regarding the scope and data used for the traffic study. The proposed Scope of Work does not include the collection of any traffic count or accident data, a Project area site visit, an analysis of intersection or roadway segment LOS, the layout or design of any improvements, Pinnacle staff's attendance at any Project meetings or Public hearings, or any other tasks not specifically listed above.

**Utilities and Service Systems.** Two (2) wells are currently located on the site which would provide water to the residences. Water for the fire hydrant(s) would be provided via an existing Cal Am water line in Val Verde Drive. The Project would be connected to an existing sanitary sewer line (Carmel Area Waste Water District) in Val Verde Drive. Gas and electricity for the proposed development are expected to be provided by Pacific Gas & Electric Company (PG&E).

The EIR will include an evaluation of potential impacts to utilities/service systems based on the Project plans and description, other information provided by the Project Applicant and consultation with relevant agencies. Mitigation measures will be identified, if necessary.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/7/2015

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 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).

<b>PRODUCER License # 0E67768</b> <b>Legends Environmental Ins. Services</b> 130 Vantis Suite 250 Aliso Viejo, CA 92656	<b>CONTACT NAME:</b> Michael Manawil <b>PHONE (A/C, No, Ext):</b> (800) 992-6999 <b>FAX (A/C, No):</b> (800) 999-3987 <b>E-MAIL ADDRESS:</b> Michael.Manawil@legends-enviro.com
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b> INSURER A : <b>Crum &amp; Forster Specialty Insurance Company</b> <b>44520</b> INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :
<b>INSURED</b>  <b>Rincon Consultants, Inc.</b> 222 N Ashwood Ave Ventura, CA 93045	

**COVERAGES**      **CERTIFICATE NUMBER:**      **REVISION NUMBER:**

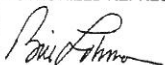
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>Pollution Liability</b> <input checked="" type="checkbox"/> <b>Transportation Pol.*</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X X	EPK-105397	09/22/2014	09/22/2016	EACH OCCURRENCE \$ <b>3,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>50,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>3,000,000</b> GENERAL AGGREGATE \$ <b>4,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>4,000,000</b> Transp. Poll.* \$ <b>1,000,000</b> COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					
A	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ <b>10,000</b>	X	EFX-101817	09/22/2014	09/22/2015	EACH OCCURRENCE \$ <b>5,000,000</b> AGGREGATE \$ <b>5,000,000</b> \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in Nh) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A					<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	<b>Professional Liab*</b>		EPK-105397	09/22/2014	09/22/2016	<b>Occurrence</b> \$ <b>3,000,000</b>
A	<b>Professional Liab.*</b>		EPK-105397	09/22/2014	09/22/2016	<b>Aggregate</b> \$ <b>4,000,000</b>

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

All projects performed by the Insured.  
\*Professional Liability and Transportation Pollution are written on a Claims Made basis. When required by written contract, the General Liability and Pollution Liability Limits are on a Per Project basis while dedicated; the Professional Liability is on a Per Policy basis.  
The County of Monterey, its Officers, Agents and Employees are included as additional insured on a primary and non-contributory basis; waiver of subrogation applies where required by a written contract. 30 day notice of cancellation with 10 day notice for nonpayment of premium in accordance with the policy provisions.

**CERTIFICATE HOLDER**      **CANCELLATION**

<b>County of Monterey</b> Contracts/Purchasing Division 168 West 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 
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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
1/5/2015

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.

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PRODUCER Tolman & Wiker Insurance Services LLC #0E52073 196 S. Fir Street PO Box 1388 Ventura CA 93002-1388	CONTACT NAME: Pam Ayerle	
	PHONE (A/C No. Ext): (805) 585-6737 FAX (A/C No.): (805) 585-6837 E-MAIL ADDRESS: payerle@tolmanandwiker.com	
INSURED Rincon Consultants Inc. 180 N. Ashwood Ave. Ventura CA 93003	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: American Fire & Cas Ins Co	24066
	INSURER B: State Compensation Ins Fund	35076
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: 14/15 AU/WC 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS  <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			BAA (15) 56271217	12/17/2014	12/17/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Underinsured motorist BI single \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
B	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 type="checkbox"/> N/A	9086946-2014	2/1/2014	2/1/2015	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER 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 (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
AUTO: The County of Monterey, Its Officers, Agents and Employees are Additional Insured as respects to operations of the Named Insured per CA88100113. This Insurance is Primary & Non-Contributory to any other Insurance per CA00010306. Endorsements apply only as required by current written contract on file.

CERTIFICATE HOLDER County of Monterey Contracts/Purchasing Department 168 West Alisal Street 3rd Floor Salinas, CA 93901	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE David Shore/PAMELA
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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
1/21/2015

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.

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<b>PRODUCER</b> Tolman & Wiker Insurance Services LLC #0E52073 196 S. Fir Street PO Box 1388 Ventura CA 93002-1388	<b>CONTACT NAME:</b> Pam Ayerle <b>PHONE (A/C, No, Ext):</b> (805) 585-6737 <b>FAX (A/C, No):</b> (805) 585-6837 <b>E-MAIL ADDRESS:</b> payerle@tolmanandwiker.com																					
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INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			BAA (15) 56271217	12/17/2014	12/17/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Underinsured motorist BI single \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	9086946-2015	2/1/2015	2/1/2016	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER 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** (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
**AUTO:** The County of Monterey, Its Officers, Agents and Employees are Additional Insured as respects to operations of the Named Insured per CA88100113. This Insurance is Primary & Non-Contributory to any other Insurance per CA00010306. Endorsements apply only as required by current written contract on file.

<b>CERTIFICATE HOLDER</b>  County of Monterey Contracts/Purchasing Department 168 West Alisal Street 3rd Floor Salinas, CA 93901	<b>CANCELLATION</b>  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  David Shore/PAMELA 
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION**

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
Any person or organization when you have agreed in writing in a contract or agreement that such person or organization be added as an Additional Insured.	Where specified 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.

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

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location And Description Of Completed Operations</b>
Any person or organization when you have agreed in writing in a contract or agreement that such person or organization be added as an Additional Insured for Completed Operations Coverage.	Where specified 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".

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

**PRIMARY NON CONTRIBUTORY INSURANCE ENDORSEMENT FOR SPECIFIED PROJECT**

This Endorsement shall not serve to increase our limits of insurance, as described in SECTION III - LIMITS OF INSURANCE.

In consideration of the payment of premiums, it is hereby agreed as follows.

Solely with respect to the specified project listed below and subject to all terms, conditions and exclusions of the policy, this insurance shall be considered primary to the Additional Insured listed below if other valid and collectible insurance is available to the Additional Insured for a loss we cover for the Additional Insured under COVERAGE A. It is also agreed that any other insurance maintained by the additional insured shall be non-contributory.

<b>Additional Insured(s)</b>	<b>Specified Project</b>
Any person or organization when you have agreed in writing in a contract or agreement that such person or organization be added as an Additional Insured on a primary and non contributory basis.	Where specified by written contract.

All other terms, conditions and exclusions under the policy are applicable to this Endorsement and remain unchanged.

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

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:  
COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name of Person or Organization:**

**Any person or organization when you have agreed in writing in a contract or agreement to waive your right of recovery against such person or organization.**

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

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV – COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. Inspections And Surveys

1. We have the right to:
  - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
  - a. Are safe or healthful; or
  - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

### E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

### F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

**COVERAGE INDEX**

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**SECTION II - LIABILITY COVERAGE** is amended as follows:

**1. BROAD FORM INSURED**

SECTION II - LIABILITY COVERAGE, paragraph **A.1.** - WHO IS AN INSURED is amended to include the following as an insured:

d. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period. However, "insured" does not include any organization that:

- (1) Is a partnership or joint venture; or
- (2) Is an insured under any other automobile policy; or
- (3) Has exhausted its Limit of Insurance under any other automobile policy.

Paragraph d. (2) of this provision does not apply to a policy written to apply specifically in excess of this policy.

e. Any organization you newly acquire or form, other than a partnership or joint venture, of which you own more than 50 percent of the voting stock. This automatic coverage is afforded only for 180 days from the date of acquisition or formation. However, coverage under this provision does not apply:

- (1) If there is similar insurance or a self-insured retention plan available to that organization;

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- (2) If the Limits of Insurance of any other insurance policy have been exhausted; or
- (3) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

**2. EMPLOYEES AS INSUREDS**

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- f. Any "employee" of yours while using a covered "auto" you do not own, hire or borrow, but only for acts within the scope of their employment by you. Insurance provided by this endorsement is excess over any other insurance available to any "employee".
- g. An "employee" of yours while operating an "auto" hired or borrowed under a written contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business and within the scope of their employment. Insurance provided by this endorsement is excess over any other insurance available to the "employee".

**3. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT**

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

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

However, such person or organization is an "insured":

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

**4. SUPPLEMENTARY PAYMENTS**

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

- (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations ) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$500 a day because of time off from work.

**5. AMENDED FELLOW EMPLOYEE EXCLUSION**

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by the workers compensation exclusivity rule, or similar protection, the following provision is added:

SECTION II - LIABILITY, exclusion B.5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

**SECTION III - PHYSICAL DAMAGE COVERAGE** is amended as follows:

**6. HIRED AUTO PHYSICAL DAMAGE**

Paragraph A.4. Coverage Extensions of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos":

- a. You hire, rent or borrow; or

- b. Your "employee" hires or rents under a written contract or agreement in that "employee's" name, but only if the damage occurs while the vehicle is being used in the conduct of your business,

subject to the following limit and deductible:

- A. The most we will pay for "loss" in any one "accident" or "loss" is the smallest of:
- (1) \$50,000; or
  - (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
  - (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality, minus a deductible.
- B. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.
- C. Subject to the limit, deductible and excess provisions described in this provision, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.
- D. Subject to a maximum of \$1,000 per "accident", we will also cover the actual loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss.
- E. This coverage extension does not apply to:
- (1) Any "auto" that is hired, rented or borrowed with a driver; or
  - (2) Any "auto" that is hired, rented or borrowed from your "employee".

For the purposes of this provision, SECTION V - DEFINITIONS is amended by adding the following:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

#### 7. TOWING AND LABOR

SECTION III - PHYSICAL DAMAGE COVERAGE, paragraph A.2. Towing, is amended by the addition of the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles, we will pay up to \$50 per disablement.
- b. For "light trucks", we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- c. For "medium trucks", we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 - 20,000 pounds.

However, the labor must be performed at the place of disablement.

#### 8. PHYSICAL DAMAGE - ADDITIONAL TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a., Coverage Extension of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended to provide a limit of \$50 per day and a maximum limit of \$1,500

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**9. RENTAL REIMBURSEMENT**

SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

- a. We will pay up to \$75 per day for rental reimbursement expenses incurred by you for the rental of an "auto" because of "accident" or "loss", to an "auto" for which we also pay a "loss" under Comprehensive, Specified Causes of Loss or Collision Coverages. We will pay only for those expenses incurred after the first 24 hours following the "accident" or "loss" to the covered "auto."
- b. Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for the period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days.
- c. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your tools and equipment from the covered "auto".
- d. This coverage does not apply unless you have a business necessity that other "autos" available for your use and operation cannot fill.
- e. 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 under Paragraph 4. Coverage Extension.
- f. No deductible applies to this coverage.

For the purposes of this endorsement provision, materials and equipment do not include "personal effects" as defined in provision 11.

**10. EXTRA EXPENSE - BROADENED COVERAGE**

Under SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you. The maximum amount we will pay is \$1,000.

**11. PERSONAL EFFECTS COVERAGE**

A. SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$600 for "personal effects" stolen with the "auto."

The insurance provided under this provision is excess over any other collectible insurance.

B. SECTION V - DEFINITIONS is amended by adding the following:

For the purposes of this provision, "personal effects" mean tangible property that is worn or carried by an insured." "Personal effects" does not include tools, equipment, jewelry, money or securities.

**12. ACCIDENTAL AIRBAG DEPLOYMENT**

SECTION III - PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion for "loss" relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

Any insurance we provide shall be excess over any other collectible insurance or reimbursement by manufacturer's warranty. However, we agree to pay any deductible applicable to the other coverage or warranty.

**13. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE**

SECTION III - PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS, exception paragraph a. to exclusions 4.c. and 4.d. is deleted and replaced with the following:

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

- a. Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto" and physical damage coverages are provided for the covered "auto"; or

If the "loss" occurs solely to audio, visual or data electronic equipment or accessories used with this equipment, then our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.

#### 14. LOAN / LEASE GAP COVERAGE

- A. Paragraph C., LIMIT OF INSURANCE of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by adding the following:

The most we will pay for a "total loss" to a covered "auto" owned by or leased to you in any one "accident" is the greater of the:

1. Balance due under the terms of the loan or lease to which the damaged covered "auto" is subject at the time of the "loss" less the amount of:
  - a. Overdue payments and financial penalties associated with those payments as of the date of the "loss",
  - b. Financial penalties imposed under a lease due to high mileage, excessive use or abnormal wear and tear,
  - c. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease,
  - d. Transfer or rollover balances from previous loans or leases,
  - e. Final payment due under a "Balloon Loan",
  - f. The dollar amount of any unrepaired damage which occurred prior to the "total loss" of a covered "auto",
  - g. Security deposits not refunded by a lessor,
  - h. All refunds payable or paid to you as a result of the early termination of a lease agreement or as a result of the early termination of any warranty or extended service agreement on a covered "auto",
  - i. Any amount representing taxes,
  - j. Loan or lease termination fees; or

2. The actual cash value of the damage or stolen property as of the time of the "loss".

An adjustment for depreciation and physical condition will be made in determining the actual cash value at the time of the "loss". This adjustment is not applicable in Texas.

#### B. ADDITIONAL CONDITIONS

This coverage applies only to the original loan for which the covered "auto" that incurred the loss serves as collateral, or lease written on the covered "auto" that incurred the loss.

- C. SECTION V - DEFINITIONS is changed by adding the following:

As used in this endorsement provision, the following definitions apply:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

A "balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.



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**15. GLASS REPAIR - WAIVER OF DEDUCTIBLE**

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

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

**16. PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)**

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

The deductible does not apply to "loss" caused by collision to such covered "auto" of the private passenger type or light weight truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as maximum loaded weight the "auto" is designed to carry while it is:

- a. In the charge of an "insured";
- b. Legally parked; and
- c. Unoccupied.

The "loss" must be reported to the police authorities within 24 hours of known damage.

The total amount of the damage to the covered "auto" must exceed the deductible shown in the Declarations.

This provision does not apply to any "loss" if the covered "auto" is in the charge of any person or organization engaged in the automobile business.

**17. TWO OR MORE DEDUCTIBLES**

Under SECTION III PHYSICAL DAMAGE COVERAGE, if two or more company policies or coverage forms apply to the same accident, the following applies to paragraph D. Deductible:

- a. If the applicable Business Auto deductible is the smaller (or smallest) deductible it will be waived; or
- b. If the applicable Business Auto deductible is not the smaller (or smallest) deductible it will be reduced by the amount of the smaller (or smallest) deductible; or
- c. If the loss involves two or more Business Auto coverage forms or policies the smaller (or smallest) deductible will be waived.

For the purpose of this endorsement company means any company that is part of the Liberty Mutual Group.

**SECTION IV - BUSINESS AUTO CONDITIONS is amended as follows:**

**18. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

SECTION IV- BUSINESS AUTO CONDITIONS, Paragraph **B.2.** is amended by adding the following:

If you unintentionally fail to disclose any hazards, exposures or material facts existing as of the inception date or renewal date of the Business Auto Coverage Form, the coverage afforded by this policy will not be prejudiced.

However, you must report the undisclosed hazard of exposure as soon as practicable after its discovery, and we have the right to collect additional premium for any such hazard or exposure.

**19. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS**

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.2.a.** is replaced in its entirety by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when it is known to:
  - 1. You, if you are an individual;
  - 2. A partner, if you are a partnership;
  - 3. Member, if you are a limited liability company;
  - 4. An executive officer or the "employee" designated by the Named Insured to give such notice, if you are a corporation.

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To the extent possible, notice to us should include:

- (1) How, when and where the "accident" or "loss" took place;
- (2) The "insureds" name and address; and
- (3) The names and addresses of any injured persons and witnesses.

**20. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.5.**, Transfer of Rights of Recovery Against Others to Us, is amended by the addition of the following:

If the person or organization has waived those rights before an "accident" or "loss", our rights are waived also.

**21. HIRED AUTO COVERAGE TERRITORY**

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **B.7.**, Policy Period, Coverage Territory, is amended by the addition of the following:

- f. For "autos" hired 30 days or less, the coverage territory is anywhere in the world, provided that the insured's responsibility to pay for damages is determined in a "suit", on the merits, in the United States, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

This extension of coverage does not apply to an "auto" hired, leased, rented or borrowed with a driver.

**SECTION V - DEFINITIONS is amended as follows:**

**22. BODILY INJURY REDEFINED**

Under SECTION V - DEFINITIONS, definition **C.** is replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

**COMMON POLICY CONDITIONS**

**23. EXTENDED CANCELLATION CONDITION**

COMMON POLICY CONDITIONS, paragraph **A.** - CANCELLATION condition applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states which require more than 60 days prior notice of cancellation.

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## BUSINESS AUTO COVERAGE FORM

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

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

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

### SECTION I - COVERED AUTOS

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

#### A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own.) This includes those "autos" you acquire ownership of after the policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5	Owned "Autos" Subject To No-Fault	Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent, or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

Symbol	Description Of Covered Auto Designation Symbols	
9	Non-Owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households but only while used in your business or your personal affairs.
19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.

**B. Owned Autos You Acquire After The Policy Begins**

1. If symbols 1, 2, 3, 4, 5, 6 or 19 are entered next to a coverage in ITEM TWO of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if symbol 7 is entered next to a coverage in ITEM TWO of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
  - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
  - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

**C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos**

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

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

- d. "Loss"; or
- e. Destruction

**SECTION II - LIABILITY COVERAGE**

**A. Coverage**

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

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

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

**1. Who Is An Insured**

The following are "insureds":

- a. You for any covered "auto."
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:



- (1) The owner or anyone else from whom you hire or borrow a covered "auto". This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.
- (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
- (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
- (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
- (5) A partner (if you are a partnership), or a member (if you are a limited liability company), for a covered "auto" owned by him or her or a member of his or her household.

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

## 2. Coverage Extensions

### a. Supplementary Payments.

We will pay for the "insured":

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

- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

### b. Out of State Coverage Extensions.

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

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

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

## B. Exclusions

This insurance does not apply to any of the following:

### 1. Expected Or Intended Injury

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

### 2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

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

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

### 3. Workers' Compensation

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

### 4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

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

This exclusion applies:

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

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

### 5. Fellow Employee

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

### 6. Care, Custody Or Control

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

### 7. Handling Of Property

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

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

### 8. Movement Of Property By Mechanical Device

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

### 9. Operations

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

- a. Any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment"; or
- b. Machinery or equipment that is on, attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

### 10. Completed Operations

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

In this exclusion, your work means:

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

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

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

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

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

#### 11. Pollution

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

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

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

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

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

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

#### 12. War

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

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

### 13. Racing

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

### C. Limit Of Insurance

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

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

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

## SECTION III - PHYSICAL DAMAGE COVERAGE

### A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:
  - a. **Comprehensive Coverage.** From any cause except:
    - (1) The covered "auto's" collision with another object; or
    - (2) The covered "auto's" overturn.
  - b. **Specified Causes of Loss Coverage.** Caused by:
    - (1) Fire, lightning or explosion;
    - (2) Theft;
    - (3) Windstorm, hail or earthquake;
    - (4) Flood;
    - (5) Mischief or vandalism; or
    - (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".
  - c. **Collision Coverage.** Caused by:
    - (1) The covered "auto's" collision with another object; or
    - (2) The covered "auto's" overturn.

### 2. Towing.

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

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

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

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

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

### 4. Coverage Extensions

#### a. Transportation Expenses

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

#### b. Loss Of Use Expenses

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

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";

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

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

#### B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".
  - a. **Nuclear Hazard.**
    - (1) The explosion of any weapon employing atomic fission or fusion; or
    - (2) Nuclear reaction or radiation, or radioactive contamination, however caused.
  - b. **War or Military Action.**
    - (1) War, including undeclared or civil war;
    - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
    - (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.
2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.
3. We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:
  - a. Wear and tear, freezing, mechanical or electrical breakdown.
  - b. Blowouts, punctures or other road damage to tires.
4. We will not pay for "loss" to any of the following:
  - a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
  - b. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.
  - c. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
  - d. Any accessories used with the electronic equipment described in Paragraph c. above.

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

  - a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or such equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or
  - b. Any other electronic equipment that is:
    - (1) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or

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

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

#### C. Limit Of Insurance

1. The most we will pay for "loss" in any one "accident" is the lesser of:
  - a. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
  - b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.
2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

#### D. Deductible

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

### SECTION IV - BUSINESS AUTO CONDITIONS

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

#### A. Loss Conditions

##### 1. Appraisal For Physical Damage Loss

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

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

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

##### 2. Duties In The Event Of Accident, Claim, Suit Or Loss

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

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:
  - (1) How, when and where the "accident" or "loss" occurred;
  - (2) The "insured's" name and address; and
  - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved "insured" must:
  - (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
  - (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
  - (4) Authorize us to obtain medical records or other pertinent information.
  - (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.
- c. If there is "loss" to a covered "auto" or its equipment you must also do the following:
  - (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.

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

**3. Legal Action Against Us**

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

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

**4. Loss Payment - Physical Damage Coverages**

At our option we may:

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

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

**5. Transfer Of Rights Of Recovery Against Others To Us**

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

**B. General Conditions**

**1. Bankruptcy**

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

**2. Concealment, Misrepresentation Or Fraud**

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

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

**3. Liberalization**

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

**4. No Benefit To Bailee - Physical Damage Coverages**

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

## 5. Other Insurance

- a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Liability Coverage this Coverage Form provides for the "trailer" is:
  - (1) Excess while it is connected to a motor vehicle you do not own.
  - (2) Primary while it is connected to a covered "auto" you own.
- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".
- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Liability Coverage is primary for any liability assumed under an "insured contract".
- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

## 6. Premium Audit

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

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

## 7. Policy Period, Coverage Territory

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

- a. During the policy period shown in the Declarations; and

- b. Within the coverage territory.

The coverage territory is:

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

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

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

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

## 8. Two Or More Coverage Forms Or Policies Issued By Us

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



## SECTION V - DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means;
1. A land motor vehicle, "trailer" or semi-trailer designed for travel on public roads; or
  2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.
- D. "Covered pollution cost or expense" means any cost or expense arising out of:
1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
  2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

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

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by, handled, or handled for movement into, onto or from the covered "auto";
  - (2) Otherwise in the course of transit by or on behalf of the "insured";
  - (3) Being stored, disposed of, treated or processed in or upon the covered "auto"; or

- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured."

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

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

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

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

- E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".
- F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.
- H. "Insured contract" means:
  - 1. A lease of premises;
  - 2. A sidetrack agreement;
  - 3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - 4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - 5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
  - 6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental of lease, by you or any of your "employees", of any "auto." However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".
- I. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- J. "Loss" means direct and accidental loss or damage.
- K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
  - 1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - 2. Vehicles maintained for use solely on or next to premises you own or rent;
  - 3. Vehicles that travel on crawler treads;
  - 4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - a. Power cranes, shovels, loaders, diggers or drills; or
    - b. Road construction or resurfacing equipment such as graders, scrapers or rollers.
- L. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing; or
- M. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
- N. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

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

5. Vehicles not described in Paragraphs 1., 2., 3., or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - b. Cherry pickers and similar devices used to raise or lower workers.
6. Vehicles not described in Paragraphs 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
  - a. Equipment designed primarily for:
    - (1) Snow removal;
    - (2) Road maintenance, but not construction or resurfacing; or
    - (3) Street cleaning;
  - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

- L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- M. "Property damage" means damage to or loss of use of tangible property.
- N. "Suit" means a civil proceeding in which:
  1. Damages because of "bodily injury" or "property damage"; or
  2. A "covered pollution cost or expense", to which this insurance applies, are alleged.
 "Suit" includes:
  - a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- P. "Trailer" includes semitrailer.