

# Attachment D

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**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES**  
**(NOT TO EXCEED \$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:

EcoSystems West Consulting Group  
(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 2009 Piperia Plan Studies for the Pebble Beach Company's Del Monte Forest Preservation and  
Development Plan

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 \$ 24,999.00.

3. **TERM OF AGREEMENT.** The term of this Agreement is from February 1, 2009 to April 30, 2010, 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**
- Exhibit B    Justification to Professional Liability Insurance

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.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR

shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6. PAYMENT CONDITIONS.

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

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

## 7. TERMINATION.

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

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

8. **INDEMNIFICATION.** Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

## 9. 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 the County has approved such insurance. 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, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

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

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

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

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

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

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

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

9.04. Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the

policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

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

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

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

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

## 10. RECORDS AND CONFIDENTIALITY.

10.01. Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

10.02. County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.

10.03. Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04. Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.05. Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this

Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

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

FOR COUNTY:	FOR CONTRACTOR:
Dalia M. Mariscal-Martinez, Mgmt. Analyst II	Bill Davilla, Principal
Name and Title	Name and Title
County of Monterey Resource Management Agency 168 W. Alisal Street, 2nd Floor, Salinas, CA 93901	EcoSystems West Consulting Group 819 1/2 Pacific Avenue, Suite 4, Santa Cruz, CA 95060
Address	Address
(831) 755-8966	(831) 429-6730
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.

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

~~COUNTY OF MONTEREY~~

CONTRACTOR

By: [Signature]  
Contracts/Purchasing Officer

EcoSystems West Consulting Group  
Contractor's Business Name\*

Date: 5-7-09

By: \_\_\_\_\_  
Department Head (if applicable)

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

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

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

WILLIAM DAVILLA GUNER  
Name and Title

By: [Signature]  
County Counsel

Date: 4-14-2009

Date: 3-16-09

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

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

By: [Signature]  
Auditor/Controller

\_\_\_\_\_  
Name and Title

Date: 4-17-09

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

RISK MANAGEMENT  
COUNTY OF MONTEREY  
APPROVED AS TO INDEMNITY/  
INSURANCE LANGUAGE

Approved as to Liability Provisions

By: [Signature]  
Risk Management

Date: 4-21-09

\*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 only if changes are made to the standard provisions of the PSA

<sup>2</sup>Approval by Auditor/Controller is required

<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

TITLE: 2009 Piperia Studies

DURATION: February 2009 –January 2010

### SCOPE

In this project, we will continue to monitor research plots established between 2005 and 2007 to inform habitat management, enhancement, and transplantation projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest. The studies were identified by the project Adaptive Management Team (AMT) as priorities for research as part of Phase 1a testing of the Final Piperia Plan, which was being developed to mitigate impacts of the Del Monte Forest Preservation and Development Plan (DMF/PDP). Though changes to the proposed development may render unnecessary the Final Piperia Plan, at least as previously outlined, the research program has been recognized by the AMT as invaluable for informing management of protected habitat within the Del Monte Forest in order to conserve Yadon's piperia. Moreover, results of the research can be used to design successful enhancement projects to mitigate the impacts of other future development within the region.

This scope of work describes monitoring of previously established research studies for the 12 month period beginning in February 2009.

### INTRODUCTION

The ongoing research in this project is designed to answer the following main questions:

1. What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?
2. What factors might influence establishment of *Piperia yadonii* from seed and success of *P. yadonii* establishment following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?
3. What habitat factors influence *P. yadonii* individual and population performance?

These questions were identified by the AMT as being most important to inform enhancement, management, and/or transplantation of Yadon's piperia. For each question, we provide background information about the relevance to conservation and management, and describe study methods for 2009. The reader is referred to the Report of the 2006-2007 Piperia Plan Studies (EcoSystems West Consulting Group 2008) for more detail about the studies for which ongoing monitoring is recommended in 2009. Also described is proposed work on two additional tasks associated with project implementation: convening the Adaptive Management Team and project management.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### TASKS

Because modifications to the proposed development project may render mass salvage and translocation of Yadon's piperia tubers unnecessary, this scope of work *does not* include additional effort to design a salvage and transplantation process, as were included as part of Task 1 in prior scopes of work and reports. Task 1 is skipped below and instead this scope of work begins with Task 2, to maintain continuity in task numbering with prior reports and proposals.

#### Task 2: Investigate Horticultural Techniques for *P. yadonii*

##### Question

What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?

##### Background

In 2006, we established a series of trials to examine techniques to successfully translocate and store *P. yadonii* tubers obtained from the development area at MNOUV, as well as store seed used in experiments evaluating factors influencing seedling establishment in the other areas (EcoSystems West Consulting Group 2007). Ongoing monitoring of these trials can increase understanding of the ecology of Yadon's piperia, and be used to design habitat management and enhancement efforts. The following ongoing tasks are recommended to obtain answers to the original questions posed.

##### Task 2.1: Evaluate Tuber Storage

In fall 2006, we established a study comparing the efficacy of storing tubers in flats with soil in a lath house, a greenhouse, and within the Monterey Pine Forest. In fall 2007, the tubers were excavated and examined, then re-potted into larger containers that allow monitoring of individual demographic performance. The following tasks will increase understanding of Yadon's piperia tuber biology through evaluation of their performance *ex situ*.

- 2.1.1 Monitor Vegetative Status: In spring, we will examine whether each tuber produced a vegetation plant, and if so, measure the number of leaves and longest leaf length.
- 2.1.2 Monitor Reproductive Status: In summer, we will determine the proportion of vegetation plants that reproduced, were diseased, and/or browsed.
- 2.1.3 Data Analysis: We will compare *P. yadonii* emergence rates, size structure, mean plant size, and reproductive rates among the three storage treatments, and relate individual performance to tuber size as measured in fall 2007.

##### Task 2.2: Evaluate Success of Translocated *Piperia yadonii*

In fall 2006, a tree spade was used to translocate five soil cores containing *P. yadonii* from three donor sites to three receiver sites within MNOUV. In spring 2007, five, unmoved control plots were established to facilitate examination of the effects of translocation. In addition to informing success of tuber salvage and translocation, this study can increase understanding of Yadon's piperia biology needed to inform conservation, by for example, helping understand what constitutes appropriate habitat for the endangered orchid, as tubers were translocated into apparently suitable but unoccupied habitat. The following steps are proposed to evaluate success of the transplantation treatment.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

**2.2.1 Monitor Vegetative Plant Status:** In the spring, we will measure the following in each of the five translocation cores and 5 control plots:

- Number of vegetative *Piperia*: one leaf, two leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

**2.2.2 Monitor Reproductive Plant Status:** In summer, we will measure the following within each of the 5 translocation cores and 5 control plots:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

~~2.2.3 Data Analysis: The data collected will be compared to that obtained from 2006-2008 to calculate changes in aboveground emergence rates, plant size, flowering rates, and fecundity, and to evaluate whether these changes differed between the translocation trials and control plots, and within plots in varying habitat conditions.~~

WCB  
(initials)

### Task 2.3 Report of Results from Horticultural Investigation

Based on our analyses, we will prepare a report documenting the studies conducted in Tasks 2.1 and 2.2. The report will describe the methods used, the results of the individual investigations, and discuss their relevance for enhancement and management, as well as transplantation.

### Task 3: Experimental evaluation of *Piperia yadonii* regeneration niche and establishment following exotic plant removal

#### Question

What factors might influence establishment of *Piperia yadonii* from seed following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?

#### Background

In spring 2006, we established a small-scale manipulative experiment to evaluate the independent and interactive effects of factors hypothesized to influence seedling establishment following removal of three types of exotic plants most commonly observed in or adjacent to habitat occupied by *Piperia yadonii*: 1) French broom, 2) *Acacia* species (there are more than one in the DMF/PDP Areas), and 3) rattlesnake grass. This experiment also included litter removal and seed addition treatments designed to examine the independent and interactive effects of removing litter and adding the seed of *Piperia yadonii* to establish populations of the rare plant in exotic plant treatment areas, as well as areas of apparently suitable but unoccupied habitat. In 2007, additional litter removal and seed addition plots were added to the 10 experimental blocks located within suitable but unoccupied habitat, allowing examination of the effects of inter-annual variability in weather on *Piperia yadonii* establishment.

We propose the following steps to evaluate the effects of these experimental treatments to inform design of enhancement treatments, as well as management of Yadon's piperia habitat.

**3.1 Monitor Vegetative Plant Status:** In the spring, we will revisit each of the 176, 1 m<sup>2</sup> plots established in this experiment to measure the following:

- Number of vegetative *Piperia*: one leaf, two leaf, and total

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

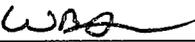
- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

**3.2 Monitor Reproductive Plant Status:** In summer, we will revisit the treatment plots that had vegetative *Piperia* in the spring to measure following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

~~3.3 Analysis and Reporting: We will examine treatment differences in the abundance and performance of *Piperia yadonii*. Analyses will be used to evaluate appropriate methods to control exotic plants within the Del Monte Forest while protecting and enhancing Yadon's *piperia* populations~~

Task 4: Examine habitat factors influencing *P. yadonii* performance

  
\_\_\_\_\_  
(initials)

### Question

What habitat factors influence the interannual variability in *P. yadonii* individual and population performance?

### Background

The *Piperia yadonii* habitat characterization indicated that, within the Del Monte Forest, *Piperia yadonii* occurs within a range of habitat conditions, in terms of plant community composition, soil conditions, and vegetation structure (EcoSystems West Consulting Group 2006). However, it is not currently known whether habitat conditions influence individual plant or patch performance, and thus population persistence. Indeed, there is little basic information available about the demographic rates for *Piperia yadonii*. This information can increase understanding of the biology of Yadon's *piperia* needed to inform habitat management and enhancement, as well as to evaluate their effectiveness.

**4.1 Examine Vegetative Plants:** The 54 permanent *P. yadonii* sites established in the 14 DMF/PDP Areas west of Highway 1 as part of the *Piperia yadonii* Habitat Characterization will be revisited during spring to collect the following data:

- Number of vegetative *Piperia*: one leaf, two leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).
- Status of the 5 target (marked) plants (aboveground vs. dormant, size if aboveground)

**4.2 Monitor Reproductive Plant Status:** In summer, we will revisit the permanent plots to measure following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants
- Reproductive status of the five target plants (flowered? Browsed? Diseased? Number of fruits produced)

~~4.3 Data Analysis and Reporting: The 2009 data will be combined with that collected between 2005 and 2008 to evaluate habitat factors that influence interannual variability in vegetative plant abundance, size structure, plant size, flowering rates, and fecundity. Results of the study will be presented in a report emphasizing the implications of the trends observed for the design and implementation of successful transplantation and enhancement projects.~~

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 6: Coordinate Adaptive Management Team

As part of our work on this project, we will coordinate and participate in the Adaptive Management Team (AMT) that will review and guide implementation of these studies. This task will include preparing documents for review by the AMT, and participating in meetings with the AMT and its members to discuss the projects.

In order to reduce costs associated with more frequent meetings, we propose that the AMT meet three times:

- May 2009: Telephone conference call to discuss spring work
- September 2009: Telephone conference call to discuss summer work
- January 2010: In-person meeting to review results of the 2009 studies and discuss 2010 scope of work.

### Task 7: Project Management

We will prepare two progress reports, one at the end of the spring season and one at the end of the summer season. The progress reports will summarize the activities completed to date and identify any problems or changes to the project tasks.

### DELIVERABLES AND IMPLEMENTATION SCHEDULE

The following products will be prepared through this project.

1. Spring 2009 progress report
2. Spring AMT meeting summary
3. Summer 2009 progress report
4. Summer AMT meeting summary
5. Power point presentation containing preliminary results of 2009 studies
6. Report describing results of all of the 2009 Piperia Plan Studies

Table 1 provides a schedule for implementation of the tasks associated with monitoring the studies, and identifies when the project deliverables will be provided to the AMT for review.

# EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

2009 Piperia Plan Studies

Table 1: Schedule for 2009 Piperia Study tasks, with numbers indicating when deliverables will be provided. Details described in text.

Study	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan '10
2 Horticultural Techniques												
2.1 Evaluate Tuber Storage												
2.1.1 Monitor Vegetative Status												
2.1.2 Monitor Reproductive Status												
2.1.3 Data Analysis												
2.2 Tuber Translocation												
2.2.1 Monitor Vegetative Plant Status												
2.2.2 Monitor Reproductive Plant Status												
2.2.3 Data Analysis												
<del>2.3 Report of Results from Horticultural Investigation</del>												
3 Exotic Plant and Regeneration Niche Experiment												
3.1 Monitor Vegetative Plant Status												
3.2 Monitor Reproductive Plant Status												
<del>3.3 Analysis and Reporting</del>												
4 Habitat factors influencing <i>P. trichotii</i> performance												
4.1 Monitor Vegetative Plant Status												
4.2 Monitor Reproductive Plant Status												
<del>4.3 Analysis and Reporting</del>												
6 Adaptive Management Team Meetings												
7 Project Management												

*Curry*  
(initials)

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### REFERENCES

EcoSystems West Consulting Group 2004. Draft Transplantation Design, Enhancement, and Adaptive Management Plan (TEAM) for Yadon's Piperia for the Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Report submitted to the County of Monterey Planning and Building Inspection Department. January 2004. 47 pages + appendices.

EcoSystems West Consulting Group 2006a. Habitat Characterization for Yadon's Piperia (*Piperia yadonii*) within the Forested Habitat of the Monterey Peninsula. Administrative draft submitted to Monterey County January 10, 2006.

EcoSystems West Consulting Group 2006b. Memo to the Adaptive Management Team describing the goals, objectives, and key definitions for the Final Piperia Plan. April 26, 2006.

EcoSystems West Consulting Group 2008. *Draft* Report of 2006-2007 Piperia Plan Studies. Administrative draft submitted to Monterey County. February 20, 2008.

Jones and Stokes. 2005. Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Final Environmental Impact Report. Volume I. Monterey County Planning and Building Inspection Department, Marina, CA. January 2005.

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

*EcoSystems West Consulting Group*

2/17/2009

Expense Type	Personnel	Stack 2.1	Stack 2.2	Subtask 2.3	Subtask 2.4	Subtask 3.1	Subtask 3.2	Subtask 3.3	Subtask 4.1	Subtask 4.2	Subtask 4.3	Task 6	Task 7	Total	Rates	Total Cost
Technical	Project Manager (Bill Davilla)	2	2	0	0	2	2	0	4	4	0	4	4	24	\$110.00	\$2,640.00
Support	Lead Botanist (McGinnis Truck)	8	16	0	0	10	10	0	96	60	0	4	4	208	\$90.00	\$18,720.00
	Word Processing/Report Production/Graphics	10	18	0	0	12	12	0	100	64	0	8	8	0	\$50.00	\$0.00
<b>Total Cost Labor</b>		\$940	\$1,660	\$0	\$0	\$1,120	\$1,120	\$0	\$9,080	\$5,840	\$0	\$800	\$800	232		\$21,360.00
CO2Cs	Mileage (total miles all trips)	200	400	0	0	200	200	0	800	600	0	0	0	2400	\$0.585	\$1,404.00
	Per Diem (includes lodging and meals)	0	2	0	0	2	0	0	8	6	0	0	0	18	\$120.00	\$2,160.00
	Field Equip/Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00		\$25.00
	Photocopy/Graphics Reproduction	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$50.00	\$0.00	\$50.00		\$50.00
<b>Total CO2Cs</b>		\$117	\$174	\$0	\$0	\$357	\$117	\$0	\$1,453	\$1,071	\$0	\$50	\$0	\$3,639		\$3,639.00
<b>Total Cost by Subtask</b>		\$1,057	\$2,134	\$0	\$0	\$1,477	\$1,237	\$0	\$10,533	\$6,911	\$0	\$850	\$800			\$3,639.00
<b>Grand Total</b>					\$3,191			\$2,714		\$17,444		\$850	\$800			\$34,995.00

Task 2: Horticultural Techniques for P. yadonii

Subtask 2.1: Evaluate Tuber Storage

Subtask 2.2: Tuber Translocation

\*Subtask 2.3: Seed Storage (included within 2008 Scope of Work, an additional studies currently anticipated)

Subtask 2.4: Report of Results of Horticultural Investigation

Task 3: Fertilizer Plant and Regeneration Niche Experiment

Subtask 3.1: Monitor Vegetative Plant Status

Subtask 3.2: Monitor Reproductive Plant Status

Subtask 3.3: Analysis and Reporting

Task 4: Habitat Factors Influencing P. yadonii Performance

Subtask 4.1: Monitor Vegetative Plant Status

Subtask 4.2: Monitor Reproductive Plant Status

Subtask 4.3: Analysis and Reporting

Task 6: Meetings, Attend Adaptive Management Team and Project Management Meetings (estimate 2 phone meetings x 2 people plus 10 hours prep time)

Task 7: Project and Contract Management/Progress Reports

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

**PAYMENT PROVISIONS**

Invoices for services performed under the AGREEMENT shall be submitted quarterly based upon a percentage of task completion and delivery of the final product and shall include the following:

**1. Invoice Coversheet**

*EcoSystems West Consulting Group  
2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest  
Preservation and Development Plan*

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

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

Agreement Term: *February 1, 2009 to April 30, 2010*

Agreement Amount \$ 24,999.00 (*\$24,999.00 base budget plus \$0.00 project contingency*)

Prior Invoices: \$ \_\_\_\_\_  
(Under this Agreement)

This Invoice: \$ \_\_\_\_\_

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

Approved as to Work/Payment: \_\_\_\_\_  
*Carl P. Holm, AICP*  
*Assistant Director of Planning*

\_\_\_\_\_  
Date

**All Invoices Are To Be Sent To:**

Jaime Martinez, Accounting Technician  
County of Monterey Resource Management Agency  
Planning Department  
168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA 93901  
Telephone: (831) 755-4829

**2. Invoice Detail**

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

EXHIBIT A - SCOPE OF SERVICES / PAYMENT PROVISIONS

County of Monterey  
 Resource Management Agency  
 Planning Department



CONSULTANT NAME: EcoSystems West Consulting Group  
 PROJECT NAME: 2009 Phipps Plan Studies  
 INVOICE NUMBER:  
 INVOICE DATE:

Project Manager/Planner: Carl P. Holm, AICP  
 PLN: PLN010254  
 PSA Term: 02/01/09 - 04/30/10

Task #	Task Description	Allocated # of Hours for Task	Hours Used for Task Completion to Date	Remaining # of Hours Available for Task Completion	Allocated Amount for Completion	Invoice #1 - Dated	Invoice #2 - Dated	Invoice #3 - Dated	Invoice #4 - Dated	Invoice #5 - Dated	Invoice #6 - Dated	Invoice #7 - Dated	Invoice #8 - Dated	Invoice #9 - Dated	Invoice #10 - Dated	Percentage of Remaining Budget for Task Completion	Remaining Budget
2.1	Evaluate Tuber Storage	10.00		10.00	\$1,057.00											100%	\$1,057.00
2.2	Evaluate Success of Translocated <i>Piperia yadonii</i>	18.00		18.00	\$2,134.00											100%	\$2,134.00
2.3	Report Results of Horticultural Investigation	0.00		0.00	\$0.00											0%	\$0.00
2.4	Monitor Vegetative Plant Status	12.00		12.00	\$1,477.00											0%	\$0.00
3.1	Monitor Reproductive Plant Status	12.00		12.00	\$1,237.00											100%	\$1,237.00
3.2	Analysis and Reporting	0.00		0.00	\$0.00											0%	\$0.00
3.3	Examine Vegetative Plants	100.00		100.00	\$10,533.00											100%	\$10,533.00
4.1	Monitor Reproductive Plant Status	64.00		64.00	\$6,911.00											100%	\$6,911.00
4.2	Analysis and Reporting	0.00		0.00	\$0.00											0%	\$0.00
4.3	Coordinate Adaptive Management	8.00	0.00	8.00	\$850.00											100%	\$850.00
6.0	Team Project	8.00	0.00	8.00	\$800.00											100%	\$800.00
7.0	Management	8.00	0.00	8.00	\$800.00											100%	\$800.00
	Grand Total	232.00	0.00	232.00	\$24,999.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	100%	\$24,999.00

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



**COUNTY OF MONTEREY  
RESOURCE MANAGEMENT AGENCY  
PLANNING DEPARTMENT**

**MEMORANDUM**

**EXHIBIT B**

**DATE:** March 2, 2009

**TO:** Steven F. Mauck  
Risk Manager  
*MM*

**FROM:** Mike Novo, AICP  
Director of Planning

**SUBJECT: JUSTIFICATION TO PROFESSIONAL LIABILITY INSURANCE FOR THE PROFESSIONAL SERVICES AGREEMENT BETWEEN ECOSYSTEMS WEST CONSULTING GROUP AND THE COUNTY OF MONTEREY FOR THE 2009 PIPERIA PLAN STUDIES FOR THE PEBBLE BEACH'S COMPANY'S DEL MONTE FOREST PRESERVATION AND DEVELOPMENT PLAN**

The Planning Department is entering into a Professional Services Agreement with EcoSystems West Consulting Group to provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan. As part of this Agreement, the Contractor has furnished proof of insurance as follows: 1) commercial general liability in the amount of \$1 million per occurrence - \$2 million aggregate, 2) workers' compensation insurance in the amount of \$1 million per occurrence, and 3) automobile insurance in the amount of \$1 million combined single limit. These amounts are in compliance with the County's minimum limits for liability. The Contractor also carries professional liability insurance in the amount of \$1 million per occurrence - \$1 million aggregate. The County normally requires professional liability in the amount of \$1 million per occurrence - \$2 million aggregate.

The Scope of Services to be performed by Mr. Davilla and his staff at EcoSystems West Consulting Group will have minimal liability to the County. All services must be conducted in accordance with standards and requirements specified by the California Department of Fish and Game, United States Fish and Wildlife Service and professional biological consulting standards and will be overseen and reviewed by the Planning Department's professional planning and environmental staff. The \$1,000,000 per claim/\$1,000,000 aggregate amount to be carried at all times during the term of this Agreement by EcoSystems West Consulting Group is deemed to be an amount that is more than sufficient to cover any potential liability in the services rendered on behalf of the County.

Your consideration of this exemption is greatly appreciated.

CPH/DMM/sd  
*DMM*

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE  
03-04-2009

**PRODUCER**  
DEALEY RENTON & ASSOC INS BRKR/PHS  
101010 P: (866)467-8730 F: (877)905-0457  
PO BOX 33015  
SAN ANTONIO TX 78265

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

**INSURERS AFFORDING COVERAGE**

**INSURED**  
ECO SYSTEMS WEST  
819 1/2 PACIFIC AVE. STE 200  
SANTA CRUZ CA 95060  
STEREORESOURCE MANAGEMENT AG  
PUBLIC WORKS - ADMIN

INSURER A: Hartford Casualty Ins Co  
INSURER B: Hartford Fire Ins Co  
INSURER C:  
INSURER D:  
INSURER E:

*Data* RECEIVED  
MAR 12 2009

**COVERAGES**

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

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	57 SBA NA8941	03/31/09	03/31/10	EACH OCCURRENCE	\$1,000,000
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$300,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$10,000
	<input checked="" type="checkbox"/> General Liab				PERSONAL & ADV INJURY	\$1,000,000
					GENERAL AGGREGATE	\$2,000,000
					PRODUCTS - COMP/OP AGG	\$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC					
A	AUTOMOBILE LIABILITY	57 SBA NA8941	03/31/09	03/31/10	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC AGG	\$
	EXCESS LIABILITY				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	57 WEC CZ3891	03/31/09	03/31/10	<input checked="" type="checkbox"/> WC STATU-TORY 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	
	OTHER					

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

Monterey County Planning & Building Inspection Department is additional insured as respects the liability coverage provided under policy number 57 SBA NA 8941 for those usual to the Insured's Operations by Form SS 12 11, which is equivalent to the CG2010. Coverage is Primary and Non-Contributory.

CERTIFICATE HOLDER  ADDITIONAL INSURED; INSURER LETTER: A

**CANCELLATION**

Monterey County Planning & Building Inspection Department Attn Ms Dalia M Mariscal Management Analyst II  
168 West Alisal Street 2nd Floor Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE (10 DAYS FOR NON-PAYMENT) TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE *[Signature]*

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
07/03/08

**PRODUCER:**  
 MRH Professional Practice  
 Insurance Brokers, Inc.  
 1030 Main Street, Suite 350  
 Irvine, CA 92614-7248

**INSURED:**  
 Ecosystems West Consulting Group  
 819 1/2 Pacific Ave, #4  
 Santa Cruz, CA 95060

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

**INSURERS AFFORDING COVERAGE:**

INSURER A: Lloyds of London  
 INSURER B:  
 INSURER C:  
 INSURER D:  
 INSURER E:

**COVERAGES**

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

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	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 \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$								
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$								
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$								
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$								
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				<table border="1"> <tr> <td>WC STATUTORY LIMITS</td> <td>OTHER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$</td> </tr> </table>	WC STATUTORY LIMITS	OTHER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$
WC STATUTORY LIMITS	OTHER												
E.L. EACH ACCIDENT	\$												
E.L. DISEASE - EA EMPLOYEE	\$												
E.L. DISEASE - POLICY LIMIT	\$												
A	<b>OTHER</b> Professional Liability	W15JJD08PNPA	06/30/08	06/30/09	\$1,000,000 Per Claim \$1,000,000 Aggregate								

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

**CERTIFICATE HOLDER** | **ADDITIONAL INSURED; INSURER LETTER:** \_\_\_\_\_ **CANCELLATION Ten Day Notice for Non-Payment of Premium**

COUNTY OF MONTEREY  
 PLANNING BUILDING INSPECTION DEPT.  
 ATTN: JEAN GETCHELL  
 2620 1ST AVE.  
 MARINA, CA 93933

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL endeavor to MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT NOT BE RESPONSIBLE FOR DELAY OR NON-RECEIPT OF SUCH NOTICE.

AUTHORIZED REPRESENTATIVE  
*Shirley Young*

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the  
to



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**BUSINESS LIABILITY COVERAGE FORM**

**QUICK REFERENCE  
BUSINESS LIABILITY COVERAGE FORM  
READ YOUR POLICY CAREFULLY**

**BUSINESS LIABILITY COVERAGE FORM**

**Beginning on Page**

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<b>D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE</b>	<b>14</b>
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# BUSINESS LIABILITY 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 stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section C. - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section G. - Liability And Medical Expenses Definitions.

## A. COVERAGES

### 1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

#### Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section D. - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph 1. of Section C. - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section C. - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

## BUSINESS LIABILITY COVERAGE FORM

- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

### e. Incidental Medical Malpractice

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:
  - (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
  - (b) You are not engaged in the business or occupation of providing such services.
- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. MEDICAL EXPENSES

### Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

## 3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

- a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

- (1) All expenses we incur.
- (2) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
- (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a-day because of time off from work.
- (5) All costs taxed against the insured in the "suit".
- (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (2) This insurance applies to such liability assumed by the insured;
- (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;
- (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (6) The indemnitee:
  - (a) Agrees in writing to:
    - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
    - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (b) Provides us with written authorization to:
    - (i) Obtain records and other information related to the "suit"; and
    - (ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph 1.b.(b) of Section B. — Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

~~Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:~~

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (6) above, are no longer met.

**B. EXCLUSIONS**

**1. Applicable To Business Liability Coverage**

This insurance does not apply to:

**a. Expected Or Intended Injury**

- (1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or
- (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

**b. Contractual Liability**

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

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(b) "Bodily injury" or "property damage" 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. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and
- (ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**d. Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) 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.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

**f. Pollution**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

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- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
  - (i) Any insured; or
  - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
  - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or

released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

- (2) Any loss, cost or expense arising out of any:

- (a) 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

- (b) 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".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

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### g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

### h. Mobile Equipment

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

### i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (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.

### j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

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- (8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;
- (9) Any:
  - (a) Body piercing (not including ear piercing);
  - (b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and
  - (c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.e. in Section A. - Coverages.

**k. Damage To Property**

"Property damage" to:

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

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section D. - Limits Of Insurance.

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

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

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

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

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

**l. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**m. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**n. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**p. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**p. Personal And Advertising Injury**

"Personal and advertising injury":

- (1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of a criminal act committed by or at the direction of the insured;
- (4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";
- (5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (6) Arising out of the wrong description of the price of goods, products or services;
- (7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

- (a) Copyright;
- (b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

- (8) Arising out of an offense committed by an insured whose business is:
  - (a) Advertising, broadcasting, publishing or telecasting;
  - (b) Designing or determining content of web sites for others; or
  - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a., b. and c. under the definition of "personal and advertising injury" in Section G. - Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;
- (10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;
- (11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

- (12) Arising out of:
  - (a) An "advertisement" for others on your web site;
  - (b) Placing a link to a web site of others on your web site;
  - (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
  - (d) Computer code, software or programming used to enable:
    - (i) Your web site; or
    - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

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- (13) Arising out of a violation of any anti-trust law;
- (14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or
- (15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

**g. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

**r. Employment-Related Practices**

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

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.

**s. Asbestos**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

- (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information**

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

**Damage To Premises Rented To You - Exception For Damage By Fire, Lightning or Explosion**

Exclusions c. through h. and k. through o. do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section D. - Liability And Medical Expenses Limits Of Insurance.

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### 2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

- a. **Any Insured**  
To any insured, except "volunteer workers".
- b. **Hired Person**  
To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. **Injury On Normally Occupied Premises**  
To a person injured on that part of premises you own or rent that the person normally occupies.
- d. **Workers' Compensation And Similar Laws**  
To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. **Athletics Activities**  
To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. **Products-Completed Operations Hazard**  
Included with the "products-completed operations hazard".
- g. **Business Liability Exclusions**  
Excluded under Business Liability Coverage.

### C. WHO IS AN INSURED

#### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

#### 2. Each of the following is also an insured:

##### a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

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(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

### b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

### c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

### d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

### e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

## 3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

## 4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

## 5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

## 6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

## BUSINESS LIABILITY COVERAGE FORM

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. - Optional Additional Insured Coverages.

### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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

### b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**c. Lessors Of Land Or Premises**

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
  - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
  - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In connection with your premises; or
  - (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:  
 This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
  - (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Supervisory, inspection, architectural or engineering activities.

**e. Permits Issued By State Or Political Subdivisions**

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
  - (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In the performance of your ongoing operations;
  - (b) In connection with your premises owned by or rented to you; or
  - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
    - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
    - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:  
 "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

## BUSINESS LIABILITY COVERAGE FORM

- (a) The preparing, approving, or failure to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section D. — Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. — Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

#### 1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- Insureds;
- Claims made or "suits" brought; or
- Persons or organizations making claims or bringing "suits".

#### 2. Aggregate Limits

The most we will pay for:

- Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

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

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

#### 3. Each Occurrence Limit

Subject to 2.a. or 2.b. above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

#### 4. Personal And Advertising Injury Limit

Subject to 2.b. above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

#### 5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

#### 6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

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If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

#### 1. Bankruptcy

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

#### 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

##### a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

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

##### b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

##### c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

##### d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

##### f. Knowledge Of An Occurrence, Offense, Claim Or Suit

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

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

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This Paragraph f. applies separately to you and any additional insured.

### 3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

### 4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

### 7. Other Insurance

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

#### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

##### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

##### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

##### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

##### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. - Coverages.

##### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. - Coverages.

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### (6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

### (7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

#### (a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### (b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

#### c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### 8. Transfer Of Rights Of Recovery Against Others To Us

#### a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

#### b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

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**F. OPTIONAL ADDITIONAL INSURED COVERAGES**

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

**1. Additional Insured - Designated Person Or Organization**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with your premises owned by or rented to you.

**2. Additional Insured - Managers Or Lessors Of Premises**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

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

This insurance does not apply to:

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

**3. Additional Insured - Grantor Of Franchise**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

**4. Additional Insured - Lessor Of Leased Equipment**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

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

This insurance does not apply to:

- (1) Any "occurrence" that takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**6. Additional Insured - State Or Political Subdivision - Permits**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

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

This insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

**7. Additional Insured – Vendors**

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- b. The insurance afforded to the vendor is subject to the following additional exclusions:

(1) This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or

- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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

**8. Additional Insured – Controlling Interest**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

- a. Their financial control of you; or
- b. Premises they own, maintain or control while you lease or occupy these premises.

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This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

### 9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations for the additional insured(s); or

(2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

### 10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

## G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

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- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above;
- c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in a. above;
- (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

7. "Electronic data" means information, facts or programs:

- a. Stored as or on;
- b. Created or used on; or
- c. Transmitted to or from

computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of "your product" or "your work" or
- b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. - Liability and Medical Expenses Limits of Insurance.
- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; or
- f. 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 party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement 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.

However, Paragraph f. does not include that part of any contract or agreement:

## BUSINESS LIABILITY COVERAGE FORM

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.
13. "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".
14. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
  - b. While it is in or on an aircraft, watercraft or "auto"; or
  - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - b. Vehicles maintained for use solely on or next to premises you own or rent;
  - c. Vehicles that travel on crawler treads;
  - d. Vehicles, whether self-propelled or not, on which are permanently mounted:
- (1) Power cranes, shovels, loaders, diggers or drills; or
  - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c., or d. 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":
- (1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:
    - (a) Snow removal;
    - (b) Road maintenance, but not construction or resurfacing; or
    - (c) Street cleaning;
  - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;

## BUSINESS LIABILITY COVERAGE FORM

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
- h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
18. "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.
19. "Products-completed operations hazard";
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
- (1) Products that are still in your physical possession; or
  - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:
    - (a) When all of the work called for in your contract has been completed.
    - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
    - (c) 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.
- The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.
- b. Does not include "bodily injury" or "property damage" arising out of:
- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
  - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.
20. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.
- As used in this definition, "electronic data" is not tangible property.
21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages 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 are claimed and to which the insured submits with our consent.
22. "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.
23. "Volunteer worker" means a person who:
- a. Is not your "employee";

**BUSINESS LIABILITY COVERAGE FORM**

- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

**24. "Your product":**

**a. Means:**

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name;

or

(c) A person or organization whose business or assets you have acquired; and

- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

**b. Includes:**

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

- (2) The providing of or failure to provide warnings or instructions.

- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

**25. "Your work":**

**a. Means:**

- (1) Work or operations performed by you or on your behalf; and

- (2) Materials, parts or equipment furnished in connection with such work or operations.

**b. Includes:**

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

- (2) The providing of or failure to provide warnings or instructions.

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

Agreement No: A-11684, A-11411

- a. Approve Amendment No. 1 to Professional Services Agreement with EcoSystems West Consulting Group where the Base Budget is increased by \$24,965 for a total amount not to exceed \$49,964 to include 2010 Piperia Plan Studies to the 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2011;
  - b. Approve Amendment No. 1 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget is increased by \$24,965 to \$49,964 with no increase to the Surcharge Budget amount of \$2,500 for a total amount not to exceed \$52,464 to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to include 2010 Piperia Plan Studies to the 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2011;
  - c. Authorize the Contracts/Purchasing Officer to execute Amendment No. 1 to the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount; and
  - d. Authorize the Director of Planning to execute Amendment No. 1 to Reimbursement Agreement No. A-11411 and future amendments to this Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount.
- (Contract - PD060822/EcoSystems West Consulting Group)

Upon motion of Supervisor Calcagno, seconded by Supervisor Parker, and carried by those members present, the Board hereby:

- a. Approved Amendment No. 1 to Professional Services Agreement (A-11684) with EcoSystems West Consulting Group where the Base Budget is increased by \$24,965 for a total amount not to exceed \$49,964 to include 2010 Piperia Plan Studies to the 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2011;
- b. Approved Amendment No. 1 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget is increased by \$24,965 to \$49,964 with no increase to the Surcharge Budget amount of \$2,500 for a total amount not to exceed \$52,464 to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to include 2010 Piperia Plan Studies to the 2009

- Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2011;
- c. Authorized the Contracts/Purchasing Officer to execute Amendment No. 1 to the Professional Services Agreement (A-11684) and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount; and
  - d. Authorized the Director of Planning to execute Amendment No. 1 to Reimbursement Agreement No. A-11411 and future amendments to this Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount.

PASSED AND ADOPTED this 27<sup>th</sup> day of April, 2010, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker

NOES: None

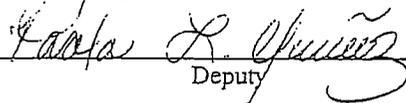
ABSENT: Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on April 27, 2010.

Dated: April 27, 2010

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

By

  
Deputy

**Amendment No. 1 to  
Professional Services Agreement with  
EcoSystems West Consulting Group  
for  
2009 Piperia Plan Studies  
For  
The Pebble Beach Company's Del Monte Forest Preservation and Development Plan**

This Amendment No. 1 to the Professional Services Agreement, (hereinafter, "Amendment No. 1"), is made and entered, by and between the County of Monterey, a political subdivision of the State of California (hereinafter, "COUNTY"), and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR").

Whereas, EcoSystems West Consulting Group entered into a Professional Services Agreement with COUNTY on May 7, 2009 (hereinafter, "AGREEMENT"),

Whereas, the parties desire to amend the AGREEMENT to provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan to include 2010 Piperia Plan Studies, extend the term of the AGREEMENT through April 30, 2011 as required by the plan for management, protection and restoration of Yador's Piperia, and delete the justification for Professional Liability insurance modification/exemption as previously agreed,

Therefore, this Amendment No. 1 amends the Agreement as follows:

1. Amend Section 1, "**SERVICES TO BE PROVIDED.**", to read as follows:

The COUNTY hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A and A-1** in conformity with the terms of this Agreement. The services are generally described as follows: Provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan. The 2010 Piperia Plan Studies to be included in this AGREEMENT are described in Exhibit A-1.

2. Amend Section 2, "**PAYMENTS BY COUNTY.**", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A and A-1, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall be increased by \$24,965.00, for a total amount not to exceed the sum of \$49,964.00.

Page 1 of 3

Amendment No. 1 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - April 30, 2011  
Not to Exceed: \$49,964.00

ENTERED  
APR 30 2010

KA

3. Amend first sentence in Section 3, "TERM OF AGREEMENT.", to read as follows:

The term of this Agreement is from February 1, 2009 to April 30, 2011, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Section 4, "ADDITIONAL PROVISIONS/EXHIBITS.", by adding "Exhibit A-1, Scope of Services/Payment Provisions" and deleting Exhibit B, Justification to Professional Liability Insurance.

5. Amend Section 9.03, "Insurance Coverage Requirements:" "Professional liability insurance," to read as follows:

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

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

6. Subject to the foregoing, all other terms and conditions of AGREEMENT shall remain in full force and effect.
7. If there is any conflict or inconsistency between the provisions of AGREEMENT and Amendment No. 1, the provisions of Amendment No. 1 shall govern.

Page 2 of 3

ENTERED

APR 30 2010

KA

Amendment No. 1 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - April 30, 2011  
Not to Exceed: \$49,964.00

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Professional Services Agreement as of the day and year written below:

COUNTY OF MONTEREY

CONTRACTOR\*

By: [Signature]  
Contracts/Purchasing Officer

EcoSystems West Consulting Group  
Contractor's Business Name

Date: 4-30-10

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

Its: William DARILYN OWEN  
(Name and Title)

Date: 4-13-2010

Approved as to Form

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

By: [Signature]  
Deputy County Counsel

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

Date: 4-14-10

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

Approved as to Fiscal Provisions

By: [Signature]  
Auditor/Controller

Date: 4-14-10

Approved as to Indemnity, Insurance Provisions

By: [Signature]  
Risk Management

Date: 4/14/10

\*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.

ENTERED  
APR 30 2010

KA

## EXHIBIT A-1 -- SCOPE OF SERVICES/PAYMENT PROVISIONS

TITLE: 2010 Piperia Studies

DURATION: February 2010-January 2011

### SCOPE

In this project, we will continue to monitor research plots established between 2005 and 2007 to inform habitat management, enhancement, and transplantation projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest. The studies were identified by the project Adaptive Management Team (AMT) as priorities for research as part of Phase 1a testing of the Final Piperia Plan, which was being developed to mitigate impacts of the Del Monte Forest Preservation and Development Plan (DMF/PDP). Though changes to the proposed development may render unnecessary the Final Piperia Plan, at least as previously outlined, the research program has been recognized by the AMT as invaluable for informing management of protected habitat within the Del Monte Forest in order to conserve Yadon's piperia. Moreover, results of the research can be used to design successful enhancement projects to mitigate the impacts of other future development within the region.

This scope of work describes monitoring of previously established research studies for the 12 month period beginning in February 2010.

### INTRODUCTION

The ongoing research in this project is designed to answer the following main questions:

1. What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?
2. What factors might influence establishment of *Piperia yadonii* from seed and success of *P. yadonii* establishment following exotic plant removal? In areas of apparently suitable but unoccupied habitat; does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?
3. What habitat factors influence *P. yadonii* individual and population performance?

These questions were identified by the AMT as being most important to inform enhancement, management, and/or transplantation of Yadon's piperia. For each question, we provide background information about the relevance to conservation and management, and describe study methods for 2010. The reader is referred to the Report of the 2006-2007 Piperia Plan Studies (EcoSystems West Consulting Group 2008) for more detail about the studies for which ongoing monitoring is recommended in 2010.

### TASKS

Because modifications to the proposed development project may render mass salvage and translocation of Yadon's piperia tubers unnecessary, this scope of work *does not* include additional effort to design a salvage and transplantation process, as were included as part of Task 1 in prior scopes of work and reports. Task 1 is skipped below and instead this scope of work begins with Task 2, to maintain continuity in task numbering with prior reports and proposals.

In addition, Task 5, the deer herbivory experiment, has been indefinitely suspended at the request of Pebble Beach Corporation.

  
Contractor's Initials

## EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 2: Investigate Horticultural Techniques for *P. yadonii*

#### Question

What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?

#### Background

In 2006, we established a series of trials to examine techniques to successfully translocate and store *P. yadonii* tubers obtained from the development area at MNOUV, as well as store seed used in experiments evaluating factors influencing seedling establishment in the other areas (EcoSystems West Consulting Group 2007). Ongoing monitoring of these trials can increase understanding of the ecology of Yadon's piperia, and be used to design habitat management and enhancement efforts. The following ongoing tasks are recommended to obtain answers to the original questions posed.

#### Task 2.1: Evaluate Tuber Storage

In fall 2006, we established a study comparing the efficacy of storing tubers in flats with soil in a lath house, a greenhouse, and within the Monterey Pine Forest. In fall 2007, the tubers were excavated and examined, then re-potted into larger containers that allow monitoring of individual demographic performance. The following tasks will increase understanding of Yadon's piperia tuber biology through evaluation of their performance *ex situ*.

- 2.1.1 **Monitor Vegetative Status:** In spring, we will examine whether each tuber produced a vegetation plant, and if so, measure the number of leaves and longest leaf length.
- 2.1.2 **Monitor Reproductive Status:** In summer, we will determine the proportion of vegetation plants that reproduced, were diseased, and/or browsed.
- 2.1.3 **Data Analysis:** This subtask will not be conducted during this project year to reduce overall costs. All data gathered during the field efforts will be appropriately archived for analysis at a latter date.

#### Task 2.2: Evaluate Success of Translocated *Piperia yadonii*

In fall 2006, a tree spade was used to translocate five soil cores containing *P. yadonii* from three donor sites to three receiver sites within MNOUV. In spring 2007, five, unmoved control plots were established to facilitate examination of the effects of translocation. In addition to informing success of tuber salvage and translocation, this study can increase understanding of Yadon's piperia biology needed to inform conservation, by for example, helping understand what constitutes appropriate habitat for the endangered orchid, as tubers were translocated into apparently suitable but unoccupied habitat. The following steps are proposed to evaluate success of the transplantation treatment.

- 2.2.1 **Monitor Vegetative Plant Status:** In the spring, we will measure the following in each of the five translocation cores and 5 control plots:
  - Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

## EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

**2.2.2 Monitor Reproductive Plant Status:** In summer, we will measure the following within each of the 5 translocation cores and 5 control plots:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

**2.2.3 Data Analysis:** This subtask will not be conducted during this project year to reduce overall costs. All data gathered during the field efforts will be appropriately archived for analysis at a latter date.

### Task 2.3 Report of Results from Horticultural Investigation

No annual report will be generated during this project year to reduce overall costs.

### Task 3: Experimental evaluation of *Piperia yadonii* regeneration niche and establishment following exotic plant removal

#### Question

What factors might influence establishment of *Piperia yadonii* from seed following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?

#### Background

In spring 2006, we established a small-scale manipulative experiment to evaluate the independent and interactive effects of factors hypothesized to influence seedling establishment following removal of three types of exotic plants most commonly observed in or adjacent to habitat occupied by *Piperia yadonii*: 1) French broom, 2) *Acacia* species (there are more than one in the DMF/PDP Areas), and 3) rattlesnake grass. This experiment also included litter removal and seed addition treatments designed to examine the independent and interactive effects of removing litter and adding the seed of *Piperia yadonii* to establish populations of the rare plant in exotic plant treatment areas, as well as areas of apparently suitable but unoccupied habitat. In 2007, additional litter removal and seed addition plots were added to the 10 experimental blocks located within suitable but unoccupied habitat, allowing examination of the effects of inter-annual variability in weather on *Piperia yadonii* establishment.

We propose the following steps to evaluate the effects of these experimental treatments to inform design of enhancement treatments, as well as management of Yadon's *piperia* habitat.

**3.1 Monitor Vegetative Plant Status:** In the spring, we will revisit each of the 176, 1 m<sup>2</sup> plots established in this experiment to measure the following:

- Number of vegetative *Piperia*: one leaf, two leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

**3.2 Monitor Reproductive Plant Status:** In summer, we will revisit the treatment plots that had vegetative *Piperia* in the spring to measure following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

## EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

- 3.3 **Analysis and Reporting:** This subtask will not be conducted during this project year to reduce overall costs. All data gathered during the field efforts will be appropriately archived for analysis at a latter date.

### Task 4: Examine habitat factors influencing *P. yadonii* performance

#### Question

What habitat factors influence the interannual variability in *P. yadonii* individual and population performance?

#### Background

The *Piperia yadonii* habitat characterization indicated that, within the Del Monte Forest, *Piperia yadonii* occurs within a range of habitat conditions, in terms of plant community composition, soil conditions, and vegetation structure (EcoSystems West Consulting Group 2006). However, it is not currently known whether habitat conditions influence individual plant or patch performance, and thus population persistence. Indeed, there is little basic information available about the demographic rates for *Piperia yadonii*. This information can increase understanding of the biology of Yadon's piperia needed to inform habitat management and enhancement, as well as to evaluate their effectiveness.

- 4.1 **Examine Vegetative Plants:** The 54 permanent *P. yadonii* sites established in the 14 DMF/PDP Areas west of Highway 1 as part of the *Piperia yadonii* Habitat Characterization will be revisited during spring to collect the following data:
- Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).
  - Status of the 5 target (marked) plants (aboveground vs. dormant, size if aboveground)
- 4.2 **Monitor Reproductive Plant Status:** In summer, we will revisit the permanent plots to measure following:
- Number of *Piperia* that initiated production of an inflorescence
  - Number of *Piperia* that were browsed and/or diseased
  - Mean reproduction (capsule production) of 10 randomly chosen plants
  - Reproductive status of the five target plants (flowered? Browsed? Diseased? Number of fruits produced)
- 4.3 **Data Analysis and Reporting:** This subtask will not be conducted during this project year to reduce overall costs. All data gathered during the field efforts will be appropriately archived for analysis at a latter date.

### Task 6: Coordinate Adaptive Management Team

As part of our work on this project, we will coordinate and participate in the Adaptive Management Team (AMT) that will review and guide implementation of these studies. In order to reduce costs associated with more frequent meetings, we propose that the AMT meet two times via short one hour teleconferences:

- May 2010: Telephone conference call to discuss spring work
- September 2010: Telephone conference call to discuss summer work

## EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 7: Project Management

Project management will consist of short phone updates with County of Monterey project staff and Pebble Beach Company project staff. No formal progress reports will be prepared as a cost-savings measure.

Table 1 provides a schedule for implementation of the tasks associated with monitoring the studies.

**EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS**

**Table 1: Schedule for 2010 Piperia Study tasks.**

Study	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
2 Horticultural Techniques											
2.1 Evaluate Tuber Storage											
2.1.1 Monitor Vegetative Status											
2.1.2 Monitor Reproductive Status											
2.2 Tuber Translocation											
2.2.1 Monitor Vegetative Plant Status											
2.2.2 Monitor Reproductive Plant Status											
3 Exotic Plant and Regeneration Niche Experiment											
3.1 Monitor Vegetative Plant Status											
3.2 Monitor Reproductive Plant Status											
4 Habitat factors influencing <i>P. yadonii</i> performance											
4.1 Monitor Vegetative Plant Status											
4.2 Monitor Reproductive Plant Status											
6 Adaptive Management Team Meetings											

## EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

### REFERENCES

- EcoSystems West Consulting Group 2004. Draft Transplantation Design, Enhancement, and Adaptive Management Plan (TEAM) for Yadon's Piperia for the Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Report submitted to the County of Monterey Planning and Building Inspection Department. January 2004. 47 pages + appendices.
- EcoSystems West Consulting Group 2006a. Habitat Characterization for Yadon's Piperia (*Piperia yadonii*) within the Forested Habitat of the Monterey Peninsula. Administrative draft submitted to Monterey County January 10, 2006.
- EcoSystems West Consulting Group 2006b. Memo to the Adaptive Management Team describing the goals, objectives, and key definitions for the Final Piperia Plan. April 26, 2006.
- EcoSystems West Consulting Group 2008. *Draft* Report of 2006-2007 Piperia Plan Studies. Administrative draft submitted to Monterey County. February 20, 2008.
- Jones and Stokes. 2005. Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Final Environmental Impact Report. Volume I. Monterey County Planning and Building Inspection Department, Marina, CA. January 2005.

# EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

EcoSystems West Consulting Group

Expense Type	Personnel	Task 2.1	Task 2.2	Task 2.3	Task 2.4	Task 3.1	Task 3.2	Task 3.3	Task 4.1	Task 4.2	Task 4.3	Task 7	Total	Rates	Total Cost
Technical	Project Manager (Bill Davilla)	2	2	0	0	2	2	0	4	4	0	4	24	\$110.00	\$2,640.00
	Lead Botanists (McGraw/Back)	8	16	0	0	10	10	0	96	60	0	4	208	\$90.00	\$18,720.00
Support	Word Processing/Report Production/Graphics	10	18	0	0	12	12	0	100	64	0	8	232	\$50.00	\$11,600.00
Total Cost Labor		\$940	\$1,660	\$0	\$0	\$1,120	\$1,120	\$0	\$9,080	\$3,840	\$0	\$800	\$13,600.00		
ODCs	Mileage (total miles all trips)	200	400	0	0	300*	200	0	800	600	0	0	2500	\$0.500	\$1,250.00
	Per Diem (includes lodging and meals)	0	3	0	0	2	0	0	8	6	0	0	19	\$120.00	\$2,280.00
	Field Equip/Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00	\$25.00		\$25.00
	Photocopy/Graphics Reproduction	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00
Total ODCs		\$100	\$580	\$0	\$0	\$390	\$100	\$0	\$1,385	\$1,020	\$0	\$0	\$3,605		\$3,605.00
Total Cost by Subtask		\$1,040	\$2,240	\$0	\$0	\$1,510	\$1,220	\$0	\$10,465	\$6,860	\$0	\$800	\$21,325		\$24,930.00
Grand Total					\$3,260			\$2,730			\$17,325	\$800			\$74,965.00

Task 2: Horticultural Techniques for P. yadonii  
 Subtask 2.1: Evaluate Tuber Storage  
 Subtask 2.2: Tuber Translocation  
 \*Subtask 2.3: Seed Storage (included within 2008 Scope of Work, no additional studies currently anticipated)  
 Subtask 2.4: Report of Results of Horticultural Investigation  
 Task 3: Ecotic Plant and Regeneration Niche Experiment  
 Subtask 3.1: Monitor Vegetative Plant Status  
 Subtask 3.2: Monitor Reproductive Plant Status  
 Subtask 3.3: Analysis and Reporting  
 Task 4: Habitat Factors Influencing P. yadonii Performance  
 Subtask 4.1: Monitor Vegetative Plant Status  
 Subtask 4.2: Monitor Reproductive Plant Status  
 Subtask 4.3: Analysis and Reporting  
 Task 6: Meetings: Attend Adaptive Management Team and Project Management Meetings (estimate 2 phone meetings x 2 people and 1 in-person meeting x 2 people plus 10 hours prep time)  
 Task 7: Project and Contract Management/Progress Reports

**EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS**

**PAYMENT PROVISIONS**

Invoices for services performed under the AGREEMENT shall be submitted quarterly based upon a percentage of task completion and delivery of the final product and shall include the following:

**1. Invoice Coversheet**

*EcoSystems West Consulting Group  
2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest  
Preservation and Development Plan*

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

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

Original Agreement Term: February 1, 2009 to April 30, 2010

Original Agreement Amount: \$ 24,999.00 (\$24,999.00 base budget plus \$0.00 project contingency)

Amendment No. 1: \$ 24,965.00 (\$24,965.00 base budget plus \$0.00 project contingency)  
Extension of Term to April 30, 2011

Total Agreement Amount: \$ 49,964.00 (\$49,964.00 base budget plus \$0.00 project contingency)

Prior Invoices: \$ \_\_\_\_\_  
(Under this Agreement)

This Invoice: \$ \_\_\_\_\_

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

Approved as to Work/Payment: \_\_\_\_\_

*Carl P. Holm, AICP  
Assistant Director of Planning*

\_\_\_\_\_  
Date

**All Invoices Are To Be Sent To:**

Jaime Martinez, Accounting Technician  
County of Monterey Resource Management Agency  
Planning Department  
168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA 93901  
Telephone: (831) 755-4829

**2. Invoice Detail**

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

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE  
04-01-2010

**PRODUCER**  
DEALEY RENTON & ASSOC INS BRKR/PHS  
101010 P: (866) 467-8730 F: (877) 905-0457  
PO BOX 33015  
SAN ANTONIO TX 78265

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

**INSURERS AFFORDING COVERAGE**

**INSURED**  
ECO SYSTEMS WEST  
819 1/2 PACIFIC AVE. STE 4  
SANTA CRUZ CA 95060

INSURER A: Hartford Casualty Ins Co  
INSURER B: Hartford Fire Ins Co  
INSURER C:  
INSURER D:  
INSURER E:

**COVERAGES**

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

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	<b>GENERAL LIABILITY</b>	57 SBA NA8941	03/31/10	03/31/11	EACH OCCURRENCE	\$1,000,000
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$300,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$10,000
	<input checked="" type="checkbox"/> General Liab				PERSONAL & ADV INJURY	\$1,000,000
					GENERAL AGGREGATE	\$2,000,000
					PRODUCTS - COMP/OP AGG	\$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC					
A	<b>AUTOMOBILE LIABILITY</b>	57 SBA NA8941	03/31/10	03/31/11	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE (Per accident)	\$
<input checked="" type="checkbox"/> NON-OWNED AUTOS						
	<b>GARAGE LIABILITY</b>				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
					AUTO ONLY: AGG	\$
	<b>EXCESS LIABILITY</b>				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	RETENTION \$					\$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	57 WEC CZ3891	03/31/10	03/31/11	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS	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
	<b>OTHER</b>					

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

Monterey County Planning & Building Inspection Department is additional insured as respects the liability coverage provided under policy number 57 SBA NA 8941 for those usual to the Insured's Operations by Form SS 12 11, which is equivalent to the CG2010. Coverage is Primary and Non-Contributory.

CERTIFICATE HOLDER  ADDITIONAL INSURED; INSURER LETTER: A CANCELLATION

Monterey County Planning & Building Inspection Department Attn Ms Dalia M Mariscal Management Analyst II  
168 W ALISAL ST FL 2  
SALINAS, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE (10 DAYS FOR NON-PAYMENT) TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*[Signature]*



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**BUSINESS LIABILITY COVERAGE FORM**

**QUICK REFERENCE**  
**BUSINESS LIABILITY COVERAGE FORM**  
**READ YOUR POLICY CAREFULLY**

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# BUSINESS LIABILITY 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 stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section C. - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section G. - Liability And Medical Expenses Definitions.

## A. COVERAGES

### 1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

#### Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section D. - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

- b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph 1. of Section C. - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section C. - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

## BUSINESS LIABILITY COVERAGE FORM

- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
- e. **Incidental Medical Malpractice**

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

- (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
- (b) You are not engaged in the business or occupation of providing such services.

(2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. MEDICAL EXPENSES

### Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

## 3. COVERAGE EXTENSION -

### SUPPLEMENTARY PAYMENTS

a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

- (1) All expenses we incur.
- (2) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
- (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- (5) All costs taxed against the insured in the "suit".
- (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (2) This insurance applies to such liability assumed by the insured;
- (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;
- (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (6) The indemnitee:
  - (a) Agrees in writing to:
    - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
    - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (b) Provides us with written authorization to:
    - (i) Obtain records and other information related to the "suit"; and
    - (ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph 1.b.(b) of Section B. — Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

~~Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:~~

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (6) above, are no longer met.

**B. EXCLUSIONS**

**1. Applicable To Business Liability Coverage**

This insurance does not apply to:

**a. Expected Or Intended Injury**

- (1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or
- (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

**b. Contractual Liability**

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

**BUSINESS LIABILITY COVERAGE FORM**

(b) "Bodily injury" or "property damage" 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. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and
- (ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**d. Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business, or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) 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.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

**f. Pollution**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

BUSINESS LIABILITY COVERAGE FORM

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or

released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

- (2) Any loss, cost or expense arising out of any:

- (a) 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
- (b) 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".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

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**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and loading or unloading."

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

**h. Mobile Equipment**

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

**i. War**

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (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.

**j. Professional Services**

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

BUSINESS LIABILITY COVERAGE FORM

(8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;

(9) Any:

(a) Body piercing (not including ear piercing);

(b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and

(c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.e. in Section A. - Coverages.

k. Damage To Property

"Property damage" to:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section D. - Limits Of Insurance.

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

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

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

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

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

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

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**o. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**p. Personal And Advertising Injury**

"Personal and advertising injury":

- (1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of a criminal act committed by or at the direction of the insured;
- (4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";
- (5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (6) Arising out of the wrong description of the price of goods, products or services;
- (7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

- (a) Copyright;
- (b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

(8) Arising out of an offense committed by an insured whose business is:

- (a) Advertising, broadcasting, publishing or telecasting;
- (b) Designing or determining content of web sites for others; or
- (c) An internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a., b. and c. under the definition of "personal and advertising injury" in Section G. - Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;
- (10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;
- (11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

(12) Arising out of:

- (a) An "advertisement" for others on your web site;
- (b) Placing a link to a web site of others on your web site;
- (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
- (d) Computer code, software or programming used to enable:
  - (i) Your web site; or
  - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

- (13) Arising out of a violation of any anti-trust law;
- (14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or
- (15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

g. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

r. Employment-Related Practices

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

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.

s. Asbestos

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

(a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

(b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

(c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You - Exception For Damage By Fire, Lightning or Explosion

Exclusions c. through h. and k. through o. do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section D. - Liability And Medical Expenses Limits Of Insurance.

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### 2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

- a. Any Insured  
To any insured, except "volunteer workers"
- b. Hired Person  
To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. Injury On Normally Occupied Premises  
To a person injured on that part of premises you own or rent that the person normally occupies.
- d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

- e. Athletics Activities  
To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. Products-Completed Operations Hazard  
Included with the "products-completed operations hazard".
- g. Business Liability Exclusions  
Excluded under Business Liability Coverage.

### C. WHO IS AN INSURED

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

re. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

#### a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

## BUSINESS LIABILITY COVERAGE FORM

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

### b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

### c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

### d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

### e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

### 3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

### 4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

### 5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

### 6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

## BUSINESS LIABILITY COVERAGE FORM

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. -- Optional Additional Insured Coverages.

### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or
- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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

### b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or

(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In connection with your premises; or

(b) In the performance of your ongoing operations performed by you or on your behalf.

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

(1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

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- (a) The preparing, approving, or failure to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section D. — Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. — Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

#### 1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- Insureds;
- Claims made or "suits" brought; or
- Persons or organizations making claims or bringing "suits".

#### 2. Aggregate Limits

The most we will pay for:

- Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

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

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

#### 3. Each Occurrence Limit

Subject to 2.a. or 2.b. above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

#### 4. Personal And Advertising Injury Limit

Subject to 2.b. above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

#### 5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

#### 6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

## BUSINESS LIABILITY COVERAGE FORM

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

#### 1. Bankruptcy

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

#### 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

##### a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

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

##### b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

##### c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses, or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

##### d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

##### f. Knowledge Of An Occurrence, Offense, Claim Or Suit

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

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

## BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

### 3. Financial Responsibility Laws

a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.

b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

### 4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

(3) We have issued this policy in reliance upon your representations.

#### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

### 7. Other Insurance

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

#### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

##### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

##### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

##### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

##### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. - Coverages.

##### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. - Coverages.

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### (6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

### (7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part.

#### (a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### (b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

#### c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### 8. Transfer Of Rights Of Recovery Against Others To Us

#### a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

#### b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

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F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. Additional Insured - Designated Person Or Organization

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with your premises owned by or rented to you.

2. Additional Insured - Managers Or Lessors Of Premises

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

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

This insurance does not apply to:

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

3. Additional Insured - Grantor Of Franchise

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. Additional Insured - Lessor Of Leased Equipment

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

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

This insurance does not apply to:

- (1) Any "occurrence" that takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

6. Additional Insured - State Or Political Subdivision - Permits

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured - State Or Political Subdivision Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

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

This insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. Additional Insured - Vendors

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- b. The insurance afforded to the vendor is subject to the following additional exclusions:

- (1) This insurance does not apply to:
  - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - (b) Any express warranty unauthorized by you;
  - (c) Any physical or chemical change in the product made intentionally by the vendor;
  - (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or

- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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

8. Additional Insured - Controlling Interest

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Controlling Interest, but only with respect to their liability arising out of:

- a. Their financial control of you; or
- b. Premises they own, maintain or control while you lease or occupy these premises.

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This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured - Owners, Lessees Or Contractors - Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owner, Lessees Or Contractors - but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations for the additional insured(s); or
- (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured - Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured - Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. - Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. - Liability And Medical Expenses General Conditions.

## G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

"Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

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- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above;
- c. All other parts of the world if the injury or damage arises out of:
  - (1) Goods or products made or sold by you in the territory described in a. above;
  - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
  - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

- 7. "Electronic data" means information, facts or programs:
  - a. Stored as or on;
  - b. Created or used on; or
  - c. Transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- 8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;
  - if such property can be restored to use by:
    - a. The repair, replacement, adjustment or removal of "your product" or "your work" or
    - b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. - Liability and Medical Expenses Limits of Insurance.
- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; or
- f. 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 party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement 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.

However, Paragraph f. does not include that part of any contract or agreement:

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- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "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".

14. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

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

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, on which are permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in a., b., c., or d. 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":

(1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
- h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "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.

19. "Products-completed operations hazard";

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:
  - (a) When all of the work called for in your contract has been completed.
  - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
  - (c) 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.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

- b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.

As used in this definition, "electronic data" is not tangible property.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages 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 are claimed and to which the insured submits with our consent.

22. "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.

23. "Volunteer worker" means a person who:

- a. Is not your "employee";

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- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you, and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

- (1) Any goods or products other than real property, manufactured, sold, handled, distributed or disposed of by:

- (a) You;
- (b) Others trading under your name,

or

- (c) A person or organization whose business or assets you have acquired; and

- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

- (2) The providing of or failure to provide warnings or instructions.

- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and

- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

- (2) The providing of or failure to provide warnings or instructions.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/18/2010

<b>PRODUCER</b> ISU INS.SERV.-BC ENV.BROKERAGE 1037 SUNCAST LANE, SUITE 103 EL DORADO HILLS, CA 95762 (916) 939-1080		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> ECOSYSTEMS WEST CONSULTING GROUP  819 1/2 PACIFIC AVE., SUITE 4 SANTA CRUZ, CA 95060		<b>INSURERS AFFORDING COVERAGE</b> INSURER A: ENDURANCE AMERICAN SPEC.INS. INSURER B: INSURER C: INSURER D: INSURER E:	<b>NAIC#</b> 41718

## COVERAGES

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

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMSMADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONT. POLLUTION  GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	ECC101008333-00	06/30/09	06/30/10	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PROP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANYAUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	ECC101008333-00 INC.IN GL ABOVE	06/30/09	06/30/10	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000  BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANYAUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L EACH ACCIDENT \$ E.L DISEASE - EA EMPLOYEE \$ E.L DISEASE - POLICY LIMIT \$
A		OTHER PROF.LIAB. INC.IN GL ABOVE	ECC101008333-00 RETRO 6/30/04	06/30/09	06/30/10	\$1,000,000 OCCURRENCE \$2,000,000 AGGREGATE

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

RE: PIPERIA PLANT STUDIES FOR THE PEBBLE BEACH COMPANY'S DEL MONTE FOREST PRESERVATION AND DEVELOPMENT PLAN / PEBBLE BEACH, MONTEREY COUNTY, CA THE COUNTY OF MONTEREY, ITS OFFICERS, AGENTS AND EMPLOYEES HAVE BEEN NAMED AS ADDITIONAL INSURED. PRIMARY COVERAGE APPLIES. (BLANKET ENDORSEMENT'S ATTACHED)

### CERTIFICATE HOLDER

COUNTY OF MONTEREY  
 RESOURCE MANAGEMENT AGENCY  
 ATTN: SHELLY DICKINSON  
 168 W. ALISAL STREET, 2ND FLOOR  
 SALINAS, CA 93901

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

**Automatic Additional Insured – Owners, Lessees or Contractors**

---

This endorsement, effective 6/30/2009 attaches to and forms a part of Policy Number ECC101008333-00. This endorsement changes the Policy. Please read it carefully.

---

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS POLLUTION LIABILITY COVERAGE PART**

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.

Automatic Primary and Non-Contributory  
Insurance Endorsement  
Designated Work Or Project(s)

---

This endorsement, effective 6/30/2009 attaches to and forms a part of Policy Number  
ECC101008333-00. This endorsement changes the Policy. Please read it carefully.

---

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of \$Applied and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this policy shall be considered primary to any similar insurance held by third parties in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.

**AMENDMENT NO. 2  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ECOSYSTEMS WEST CONSULTING GROUP**

**THIS AMENDMENT NO. 2** to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR.

**WHEREAS**, CONTRACTOR entered into a Professional Services Agreement with County on May 7, 2009 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the parties on April 30, 2010 (hereinafter, "Amendment No. 1"); and

**WHEREAS**, Agreement is due to expire on April 30, 2011; and

**WHEREAS**, additional time is necessary to obtain County of Monterey Board of Supervisors' approval to include 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review required for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan as required by the plan for management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the County and the CONTRACTOR wish to further amend the Agreement to extend the term to June 30, 2012 to continue to provide tasks associated with the completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan.

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

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

The term of this Agreement is from February 1, 2009 to June 30, 2012, unless sooner terminated pursuant to the terms of this Agreement.

2. All other terms and conditions of the Agreement remain unchanged and in full force.
3. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 2 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2010 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$49,964.00

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 to the Professional Services Agreement as of the day and year written below:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: [Signature]  
Contracts/Purchasing Officer

EcoSystems West Consulting Group  
Contractor's Business Name

Date: 4-29-11

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

Its: William Dariusz Owen  
(Print Name and Title)

Date: April 18, 2011

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

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

By: [Signature]  
Deputy County Counsel

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

**Cynthia L. Hasson**

Date: 4-20-11

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

**Approved as to Fiscal Provisions**

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

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

**Approved as to Indemnity and Insurance Provisions**

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

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

ENTERED  
APR 27 2011  
ccc

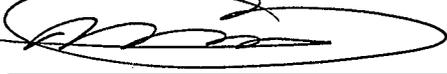
\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth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

Amendment No. 2 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2010 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$49,964.00

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 to the Professional Services Agreement as of the day and year written below:

~~COUNTY OF MONTEREY~~

**CONTRACTOR\***

By:   
Contracts/Purchasing Officer

EcoSystems West Consulting Group  
Contractor's Business Name

Date: 4-29-11

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

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

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

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

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

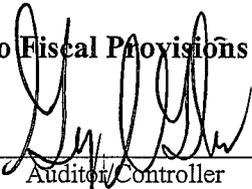
By: \_\_\_\_\_  
Deputy County Counsel

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

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

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

**Approved as to Fiscal Provisions**

By:   
Auditor/Controller

Date: 4-18-11

**Approved as to Indemnity and Insurance Provisions**

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

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

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

Amendment No. 2 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2010 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning Department  
Term: February 1, 2009 – June 30, 2012  
Not to Exceed: \$49,964.00



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/4/2011

<b>PRODUCER</b> ISU INS. SERV. - BC ENV. BROKERAGE 1037 SUNCAST LANE, SUITE 103 EL DORADO HILLS, CA 95762 (916) 939-1080	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	<b>INSURED</b> ECOSYSTEMS WEST CONSULTING GROUP  819 1/2 PACIFIC AVE., SUITE 4 SANTA CRUZ, CA 95060	<b>INSURERS AFFORDING COVERAGE</b>
	INSURER A: ENDURANCE AMERICAN SPEC. INS.	41718
	INSURER B: HARTFORD FIRE INSURANCE CO.	19682
	INSURER C:	
	INSURER D:	
	INSURER E:	

## COVERAGES

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

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMSMADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <u>CONT. POLLUTION</u>  GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	ECC101008333-01	06/30/10	06/30/11	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/DP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANYAUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	ECC101008333-01 INC. IN GL ABOVE	06/30/10	06/30/11	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000  BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANYAUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC. \$ AUTO ONLY: AGG \$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE  DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	57 WEC CZ3891	03/31/11	03/31/12	<input checked="" type="checkbox"/> WC STATU-TORY 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
A		OTHER <u>PROF. LIAB.</u> INC. IN GL ABOVE	ECC101008333-01 RETRO: 6/30/04	06/30/10	06/30/11	\$1,000,000 OCCURRENCE \$2,000,000 AGGREGATE

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

RE: PIPERIA PLANT STUDIES FOR THE PEBBLE BEACH COMPANY'S DEL MONTE FOREST PRESERVATION AND DEVELOPMENT PLAN / PEBBLE BEACH, MONTEREY COUNTY, CA THE COUNTY OF MONTEREY, ITS OFFICERS, AGENTS AND EMPLOYEES HAVE BEEN NAMED AS ADDITIONAL INSURED. PRIMARY COVERAGE APPLIES. (BLANKET ENDORSEMENT'S ATTACHED)

## CERTIFICATE HOLDER

COUNTY OF MONTEREY  
 RESOURCE MANAGEMENT AGENCY  
 ATTN: SHELLY DICKINSON  
 168 W. ALISAL STREET, 2ND FLOOR  
 SALINAS, CA 93901

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



## Automatic Additional Insured – Owners, Lessees or Contractors

---

This endorsement, effective 6/30/2010 attaches to and forms a part of Policy Number ECC101008333-01. This endorsement changes the Policy. Please read it carefully.

---

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS POLLUTION LIABILITY COVERAGE PART

### SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

---

~~The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.~~

---



**Automatic Primary and Non-Contributory  
Insurance Endorsement  
Designated Work Or Project(s)**

---

This endorsement, effective 6/30/2010 attaches to and forms a part of Policy Number ECC101008333-01. This endorsement changes the Policy. Please read it carefully.

---

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of ~~\$Applied~~ and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this ~~policy shall be considered primary to any similar insurance held by third parties~~ in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.

---

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

Agreement No.: A-11684; A-11411;

- a. Approve Amendment No. 3 to Professional Services Agreement No. A-11684 with EcoSystems West Consulting Group where the Base Budget of \$49,964 is increased by \$64,165, for a total amount not to exceed \$114,129 to include 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, for a term through June 30, 2012;
- b. Approve Amendment No. 3 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget of \$49,964 is increased by \$64,165 to \$114,129 with no change to the County Surcharge of \$2,500, for a total amount not to exceed \$116,629 to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to include 2011 Piperia Plan Studies and CEQA review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, for a term through June 30, 2012; and
- c. Authorize the Director of Planning to execute Amendment No. 3 to Professional Services Agreement No. A-11684, Amendment No. 3 to Reimbursement Agreement No. A-11411 and future amendments to these Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts. (PD060822/EcoSystems West Consulting Group)

Motion by Supervisor Salinas, seconded by Supervisor Calcagno to approve Consent Calendar – Regular, with the exception of items 40, 45 and 21. ALL AYES

Motion by Supervisor Salinas, seconded by Supervisor Potter to reconsider approval of Consent Calendar – Regular, with the exception of 40, 45 and 21. ALL AYES

Motion by Supervisor Salinas, seconded by Supervisor Potter to approve Consent Calendar – Regular, with the exception of item 40.1 and carried by those members present, the Board of Supervisors hereby:

- a. Approved Amendment No. 3 to Professional Services Agreement No. A-11684 with EcoSystems West Consulting Group where the Base Budget of \$49,964 is increased

by \$64,165, for a total amount not to exceed \$114,129 to include 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, for a term through June 30, 2012;

- b. Approved Amendment No. 3 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget of \$49,964 is increased by \$64,165 to \$114,129 with no change to the County Surcharge of \$2,500, for a total amount not to exceed \$116,629 to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to include 2011 Piperia Plan Studies and CEQA review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, for a term through June 30, 2012; and
- c. Authorized the Director of Planning to execute Amendment No. 3 to Professional Services Agreement No. A-11684, Amendment No. 3 to Reimbursement Agreement No. A-11411 and future amendments to these Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.

PASSED AND ADOPTED on this 3rd day of May, 2011, by the following vote, to wit:

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

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on May 3, 2011.

Dated: May 9, 2011

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

By Denise Hancock  
Deputy

**AMENDMENT NO. 3  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ECOSYSTEMS WEST CONSULTING GROUP**

**THIS AMENDMENT NO. 3** to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR.

**WHEREAS**, CONTRACTOR entered into a Professional Services Agreement with County on May 7, 2009 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the parties on April 30, 2010 (hereinafter, "Amendment No. 1"), and April 29, 2011 (hereinafter, "Amendment No. 2"); and

**WHEREAS**, annual Piperia Plan Studies and reporting are required for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan; and

**WHEREAS**, 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review must be conducted for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan as required by the plan for management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the County and the CONTRACTOR wish to further amend the Agreement to increase the amount to provide 2011 Piperia Plan Studies and CEQA review for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan.

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

1. Amend Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibits A, A-1 and A-2 in conformity with the terms of this Agreement. The services are generally described as follows: Provide 2009 and 2010 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan. The 2011 Piperia Plan Studies and CEQA review to be included in this AGREEMENT are described in Exhibit A-2.

Amendment No. 3 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$114,129.00

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

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A, A-1 and A-2, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall be increased by \$64,165.00, for a total amount not to exceed the sum of \$114,129.00.

3. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-2, Scope of Services/Payment Provisions".
4. Amend Paragraph 8, "Indemnification", to read as follows:

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

5. Amend "Business automobile liability insurance" Section of Paragraph 9.03, to read as follows:

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.

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

6. All other terms and conditions of the Agreement remain unchanged and in full force.
7. This Amendment No. 3 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 3 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2011 Phipps Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$114,129.00



IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 3 to the Professional Services Agreement as of the day and year written below:

COUNTY OF MONTEREY

CONTRACTOR\*

By: [Signature]  
Director of Planning

EcoSystems West Consulting Group  
Contractor's Business Name

Date: 5/16/11

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

Its: William Davilla, OWNER  
(Print Name and Title)

Date: April 18, 2011

Approved as to Form and Legality  
Office of the County Counsel

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

By: [Signature]  
Deputy County Counsel  
**Cynthia L. Hasson**

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

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

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

Approved as to Fiscal Provisions

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

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

Approved as to Indemnity and Insurance Provisions

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

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

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including 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.

Amendment No. 3 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$114,129.00

TITLE: 2011 Piperia Studies and CEQA Review

DURATION: February 2011—~~January 2012~~ June 30, 2012

WBS  
(Contractor's initials)

4-18-2011  
(Date)

#### SCOPE

In this project year, we will continue to monitor research plots established between 2005 and 2007 to inform habitat management, enhancement, and transplantation projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest. The studies were identified by the project Adaptive Management Team (AMT) as priorities for research as part of Phase 1a testing of the Final Piperia Plan, which was being developed to mitigate impacts of the Del Monte Forest Preservation and Development Plan (DMF/PDP). Though changes to the proposed development may render unnecessary the Final Piperia Plan, at least as previously outlined, the research program has been recognized by the AMT as invaluable for informing management of protected habitat within the Del Monte Forest in order to conserve Yadon's piperia. Moreover, results of the research can be used to design successful enhancement projects to mitigate the impacts of other future development within the region.

This scope of work describes monitoring of previously established research studies for the 12 month period beginning in February 2011. In addition, following the completion of this year's field data gathering we will enter the data for the past three year period through 2011, conduct statistical analysis to evaluate the status and trends of *P. yadonii* populations over that period and summarize these findings in a three-year report.

Also, EcoSystems West will conduct field surveys within those parcels identified for development in the Pebble Beach Plan Area to locate and map the extent of *P. yadonii* occurrences within the proposed development footprints.

#### INTRODUCTION

The ongoing research in this project is designed to answer the following main questions:

1. What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?
2. What factors might influence establishment of *Piperia yadonii* from seed and success of *P. yadonii* establishment following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?
3. What habitat factors influence *P. yadonii* individual and population performance?

These questions were identified by the AMT as being most important to inform enhancement, management, and/or transplantation of Yadon's piperia. For each question, we provide background information about the relevance to conservation and management, and describe study methods for 2011. The reader is referred to the Report of the 2006-2007 Piperia Plan Studies (EcoSystems West Consulting Group 2008) for more detail about the studies for which ongoing monitoring is recommended in 2011.

Ecosystems West Consulting Group

March 25, 2011

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

2011 Piperia Plan Studies

### TASKS

Because modifications to the proposed development project may render mass salvage and translocation of Yadon's piperia tubers unnecessary, this scope of work *does not* include additional effort to design a salvage and transplantation process, as were included as part of Task 1 in prior scopes of work and reports. Task 1 now identifies our approach to assessing the impacts of the proposed Pebble Beach Del Monte Forest (DMF) Plan Development on *P. yadonii* occurrences that may be affected by the project.

#### Task 1: Conduct CEQA Review of the Proposed Pebble Beach DMF Plan Development Impacts on *P. yadonii*

##### Subtask 1.1: Conduct *P. yadonii* Field Survey with Proposed Project Areas within Potential Habitat

We will conduct field surveys to locate *P. yadonii* occurrences within the proposed development footprints as described in the submitted application No. PLN100138 dated August 30, 2010. In general the DMF Plan project will consist of visitor serving improvements at the Spanish Bay Resort and the Lodge at Pebble Beach within the footprint of the existing facilities, the construction of a 100-room Hotel at Spyglass Hill Golf Course along with adjacent parking area, relocation of the Pebble Beach Golf Links Driving Range to Collins Field, and the creation of 90 residential lots within nine subdivisions along with various supporting road and drainage infrastructure improvements. Field survey will be conducted during the vegetative above ground phenology of Piperia. The area of piperia plants encountered in the development footprints will be mapped with resource grade GPS for inclusion in Project-level geographic information system (GIS) data base.

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##### ~~Subtask 1.2: Review *P. yadonii* section of the Draft EIR with Impact Assessment and Mitigations~~

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EcoSystems West will review the *P. yadonii* write-up and impact and mitigation measures in the Biological Section of the DEIR prepared by ICF. The focus of the review will be to peer review to insure consistency with the findings of the Piperia Study and collaborate with ICF (Jones and Stokes) on the need and type of mitigation measures (if necessary) to mitigate project impacts on the plant.

##### Subtask 1.3: Review Response to Comments for FEIR

We will review all response to comments prepared by ICF to the DEIR relating to *P. yadonii* for consistency with our science based knowledge of the plant.

**Subtask 1.4: Teleconference Meetings with County of Monterey and ICF**

The principal investigators will attend at the request of the County and/or ICF teleconference meetings on the BIR and/or prior to meetings with other agencies (for this scope we estimated a maximum of 2 meetings for two people for an hour each).

**Task 2: Investigate Horticultural Techniques for *P. yadonii***

**Question**

What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?

**Background**

In 2006, we established a series of trials to examine techniques to successfully translocate and store *P. yadonii* tubers obtained from the development area at MNOUV, as well as store seed used in experiments evaluating factors influencing seedling establishment in the other areas (EcoSystems West Consulting Group 2007). Ongoing monitoring of these trials can increase understanding of the ecology of Yadon's piperia, and be used to design habitat management and enhancement efforts. The following ongoing tasks are recommended to obtain answers to the original questions posed.

**Task 2.1: Evaluate Tuber Storage**

In fall 2006, we established a study comparing the efficacy of storing tubers in flats with soil in a lath house, a greenhouse, and within the Monterey Pine Forest. In fall 2007, the tubers were excavated and examined, then re-potted into larger containers that allow monitoring of individual demographic performance. The following tasks will increase understanding of Yadon's piperia tuber biology through evaluation of their performance *ex situ*.

- 2.1.1 **Monitor Vegetative Status:** In spring, we will examine whether each tuber produced a vegetation plant, and if so, measure the number of leaves and longest leaf length.
- 2.1.2 **Monitor Reproductive Status:** In summer, we will determine the proportion of vegetation plants that reproduced, were diseased, and/or browsed.
- 2.1.3 **Data Analysis:** This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a data base and statistically analyzed and summarized in the 2011 summary report.

**Task 2.2: Evaluate Success of Translocated *Piperia yadonii***

In fall 2006, a tree spade was used to translocate five soil cores containing *P. yadonii* from three donor sites to three receiver sites within MNOUV. In spring 2007, five, unmoved control plots were established to facilitate examination of the effects of translocation. In addition to informing success of tuber salvage and translocation, this study can increase understanding of Yadon's piperia biology needed to inform conservation, by for example, helping understand what constitutes appropriate habitat for the endangered orchid, as tubers were translocated into apparently suitable but unoccupied habitat. The following steps are proposed to evaluate success of the transplantation treatment.

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

2011 *Piperia* Plan Studies

**2.2.1 Monitor Vegetative Plant Status:** In the spring, we will measure the following in each of the five translocation cores and 5 control plots:

- Number of vegetative *Piperia*: one leaf, two leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

**2.2.2 Monitor Reproductive Plant Status:** In summer, we will measure the following within each of the 5 translocation cores and 5 control plots:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

**2.2.3 Data Analysis:** This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a data base and statistically analyzed and summarized in the 2011 summary report.

### Task 2.3: Seed Storage Studies

This study has been completed in 2008. No additional studies are proposed.

### Task 2.4: Horticultural Techniques Data Entry and Analysis

This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a database and statistically analyzed and summarized in the 2011 summary report.

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### Task 3: Experimental evaluation of *Piperia yadonii* regeneration niche and establishment following exotic plant removal

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#### Question

What factors might influence establishment of *Piperia yadonii* from seed following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?

#### Background

In spring 2006, we established a small-scale manipulative experiment to evaluate the independent and interactive effects of factors hypothesized to influence seedling establishment following removal of three types of exotic plants most commonly observed in or adjacent to habitat occupied by *Piperia yadonii*: 1) French broom, 2) *Acacia* species (there are more than one in the DMF/PDP Areas), and 3) rattlesnake grass. This experiment also included litter removal and seed addition treatments designed to examine the independent and interactive effects of removing litter and adding the seed of *Piperia yadonii* to establish populations of the rare plant in exotic plant treatment areas, as well as areas of apparently suitable but unoccupied habitat. In 2007, additional litter removal and seed addition plots were added to the 10 experimental blocks located within suitable but unoccupied habitat, allowing examination of the effects of inter-annual variability in weather on *Piperia yadonii* establishment.

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

2011 *Piperia* Plan Studies

We propose the following steps to evaluate the effects of these experimental treatments to inform design of enhancement treatments, as well as management of Yadon's *piperia* habitat.

- 3.1 Monitor Vegetative Plant Status:** In the spring, we will revisit each of the 176, 1 m<sup>2</sup> plots established in this experiment to measure the following:
- Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).
- 3.2 Monitor Reproductive Plant Status:** In summer, we will revisit the treatment plots that had vegetative *Piperia* in the spring to measure following:
- Number of *Piperia* that initiated production of an inflorescence
  - Number of *Piperia* that were browsed and/or diseased
  - Mean reproduction (capsule production) of 10 randomly chosen plants
- 3.3 Analysis and Reporting:** This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a data base and statistically analyzed and summarized in the 2011 summary report.

### Task 4: Examine habitat factors influencing *P. yadonii* performance

#### Question

What habitat factors influence the interannual variability in *P. yadonii* individual and population performance?

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#### Background

The *Piperia yadonii* habitat characterization indicated that, within the Del Monte Forest, *Piperia yadonii* occurs within a range of habitat conditions, in terms of plant community composition, soil conditions, and vegetation structure (EcoSystems West Consulting Group 2006). However, it is not currently known whether habitat conditions influence individual plant or patch performance, and thus population persistence. Indeed, there is little basic information available about the demographic rates for *Piperia yadonii*. This information can increase understanding of the biology of Yadon's *piperia* needed to inform habitat management and enhancement, as well as to evaluate their effectiveness.

- 4.1 Examine Vegetative Plants:** The 54 permanent *P. yadonii* sites established in the 14 DMF/PDP Areas west of Highway 1 as part of the *Piperia yadonii* Habitat Characterization will be revisited during spring to collect the following data:
- Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).
  - Status of the 5 target (marked) plants (aboveground vs. dormant, size if aboveground)
- 4.2 Monitor Reproductive Plant Status:** In summer, we will revisit the permanent plots to measure following:
- Number of *Piperia* that initiated production of an inflorescence
  - Number of *Piperia* that were browsed and/or diseased
  - Mean reproduction (capsule production) of 10 randomly chosen plants

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

### 2011 Piperia Plan Studies

- Reproductive status of the five target plants (flowered? Browsed? Diseased? Number of fruits produced)

**4.3 Data Analysis and Reporting:** This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a data base and statistically analyzed and summarized in the 2011 summary report.

#### Task 6: Coordinate Adaptive Management Team

As part of our work on this project, we will coordinate and participate in the Adaptive Management Team (AMT) that will review and guide implementation of these studies. In order to reduce costs associated with more frequent meetings, we propose that the AMT meet two times via short one hour teleconferences:

- May 2011: Telephone conference call to discuss spring work
- September 2011: Telephone conference call to discuss summer work

#### Task 7: Project Management

Project management will consist of short phone updates with County of Monterey project staff and Pebble Beach Company project staff. No formal progress reports will be prepared as a cost savings measure.

#### Task 8: Prepare Three-Year Summary Report of Piperia Studies

EcoSystems West will prepare a report documenting results of our research conducted since 2005 to inform habitat management, enhancement, and transplanted projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest. Specifically, we will enter and analyze data that have been collected in the field during 2009, 2010, and 2011 but has not yet been entered into the project database since the most recent report was prepared in 2009, which evaluated results from 2005-2008. We will conduct statistical analyses to evaluate the status and trends in *P. yadonii* populations in 2009 and 2010. We will analyze the 2011 data, as feasible, though note that this EIR will occur amidst the 2011 data collection period and so not all information from 2011 will be available or utilized in the reporting until September 2011.

The report will address three main questions that we explored with our experimental research:

1. What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?
2. What factors might influence establishment of *Piperia yadonii* from seed and success of *P. yadonii* establishment following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?
3. What habitat factors influence *P. yadonii* individual and population performance?

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

2011 Piperia Plan Studies

Table 1 outlines the data that will be analyzed as part of the individual components of the three research topics. More information about the research is available in the *Report of Piperia yadonii Studies: 2006-2008* (McGraw and Buck 2009).

**Table 1: Individual components of the three main research topics**

Topic	Component	Data Analysis
1. Horticultural Techniques	Evaluate <i>P. yadonii</i> tuber storage techniques	Demographic performance (emergence, stage class, survivorship, reproduction, and disease incidence, etc.) of <i>P. yadonii</i> tubers stored in greenhouse, lath house, and field conditions
	Evaluate success of translocated <i>Piperia yadonii</i>	Demographic performance of <i>Piperia yadonii</i> in 5 translocated soil cores
2. Experimental evaluation of <i>Piperia yadonii</i> regeneration	Suitable but unoccupied habitat	Density of <i>P. yadonii</i> within plots in 10 locations of apparently suitable but unoccupied habitat where we raked litter (to simulate a ground fire) and/or added seed.
	Establishment following exotic plant removal	Density of <i>P. yadonii</i> within three exotic plant control treatment areas (acacia, French broom, and rattlesnake grass) where we also raked litter (to simulate a ground fire) and/or added seed.
3. Examine Habitat Factors Influence <i>P. yadonii</i> performance	Long term abundance monitoring	Abundance, size distribution, and incidence of disease and herbivory in 52 permanent plots within a variety of habitat conditions monitored annually since 2005.
	Individual demographic monitoring	Demographic performance of approximately 200 tagged plants monitored within 52 permanent plots since 2005.

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

2011 Piperia Plan Studies

### REFERENCES

- EcoSystems West Consulting Group 2004. Draft Transplantation Design, Enhancement, and Adaptive Management Plan (TEAM) for Yadon's Piperia for the Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Report submitted to the County of Monterey Planning and Building Inspection Department. January 2004. 47 pages + appendices.
- EcoSystems West Consulting Group 2006a. Habitat Characterization for Yadon's Piperia (*Piperia yadonii*) within the Forested Habitat of the Monterey Peninsula. Administrative draft submitted to Monterey County January 10, 2006.
- EcoSystems West Consulting Group 2006b. Memo to the Adaptive Management Team describing the goals, objectives, and key definitions for the Final Piperia Plan. April 26, 2006.
- EcoSystems West Consulting Group 2008. *Draft* Report of 2006-2007 Piperia Plan Studies. Administrative draft submitted to Monterey County. February 20, 2008.
- Jones and Stokes. 2005. Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Final Environmental Impact Report. Volume I. Monterey County Planning and Building Inspection Department, Marina, CA. January 2005.



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

**PAYMENT PROVISIONS**

Invoices for services performed under the AGREEMENT shall be submitted quarterly based upon a percentage of task completion and delivery of the final product and shall include the following:

**1. Invoice Coversheet**

*EcoSystems West Consulting Group  
2009-2011 Piperia Plan Studies and CEQA Review for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan*

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

Original Agreement Term: February 1, 2009 to April 30, 2010  
Original Agreement Amount: \$ 24,999.00 (\$24,999.00 base budget plus \$0.00 project contingency)  
Amendment No. 1: \$ 24,965.00 (\$24,965.00 base budget plus \$0.00 project contingency)  
Extension of Term to April 30, 2011  
Amendment No. 2: Extension of Term to June 30, 2012  
Amendment No. 3: \$ 64,165.00 (\$64,165.00 base budget plus \$0.00 project contingency)  
Total Agreement Amount: \$114,129.00 (\$114,129.00 base budget plus \$0.00 project contingency)

Prior Invoices: \$ \_\_\_\_\_  
(Under this Agreement)

This Invoice: \$ \_\_\_\_\_

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

Approved as to Work/Payment: \_\_\_\_\_  
Joseph Sidor, Associate Planner

\_\_\_\_\_  
Date

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

**2. Invoice Detail**

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



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

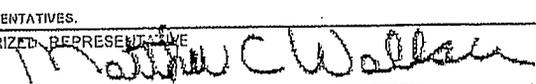
4/4/2011

<b>PRODUCER</b> ISU INS. SERV. - BC ENV. BROKERAGE 1037 SUNCAST LANE, SUITE 103 EL DORADO HILLS, CA 95762 (916) 939-1080	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	<b>INSURED</b> ECOSYSTEMS WEST CONSULTING GROUP  819 1/2 PACIFIC AVE., SUITE 4 SANTA CRUZ, CA 95060	<b>INSURERS AFFORDING COVERAGE</b>
	INSURER A: ENDURANCE AMERICAN SPEC. INS.	41718
	INSURER B: HARTFORD FIRE INSURANCE CO.	19682
	INSURER C:	
	INSURER D:	
	INSURER E:	

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

INSR LTR	ADDL INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMSMADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONT. POLLUTION GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	ECC101008333-01	06/30/10	06/30/11	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	ECC101008333-01 INC. IN GL ABOVE	06/30/10	06/30/11	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below Y/N <input type="checkbox"/>	57 WEC CZ3891	03/31/11	03/31/12	<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
A		OTHER PROF. LIAB. INC. IN GL ABOVE	ECC101008333-01 RETRO: 6/30/04	06/30/10	06/30/11	\$1,000,000 OCCURRENCE \$2,000,000 AGGREGATE

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**  
 RE: PIPERIA PLANT STUDIES FOR THE PEBBLE BEACH COMPANY'S DEL MONTE FOREST PRESERVATION AND DEVELOPMENT PLAN / PEBBLE BEACH, MONTEREY COUNTY, CA  
 THE COUNTY OF MONTEREY, ITS OFFICERS, AGENTS AND EMPLOYEES HAVE BEEN NAMED AS ADDITIONAL INSURED. PRIMARY COVERAGE APPLIES. (BLANKET ENDORSEMENT'S ATTACHED)

<b>CERTIFICATE HOLDER</b>  COUNTY OF MONTEREY RESOURCE MANAGEMENT AGENCY ATTN: SHELLY DICKINSON 168 W. ALISAL STREET, 2ND FLOOR SALINAS, CA 93901	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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Endurance

Ecosystems West Consulting Group  
Endorsement Number: 5

**Automatic Additional Insured – Owners, Lessees or Contractors**

---

This endorsement, effective 6/30/2010, attaches to and forms a part of Policy Number ECC101008333-01. This endorsement changes the Policy. Please read it carefully.

---

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS POLLUTION LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

---

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.

---

Automatic Primary and Non-Contributory  
Insurance Endorsement  
Designated Work Or Project(s)

---

This endorsement, effective 6/30/2010 attaches to and forms a part of Policy Number ECC101008333-01. This endorsement changes the Policy. Please read it carefully.

---

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of \$Applied and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this ~~policy shall be considered primary to any similar insurance held by third parties~~ in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.

---

**AMENDMENT NO. 4  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ECOSYSTEMS WEST CONSULTING GROUP**

**THIS AMENDMENT NO. 4** to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties").

**WHEREAS**, CONTRACTOR entered into a Professional Services Agreement with County on May 7, 2009 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the Parties on April 30, 2010 (hereinafter, "Amendment No. 1"), April 29, 2011 (hereinafter, "Amendment No. 2"), and May 11, 2011 (hereinafter, "Amendment No. 3"); and

**WHEREAS**, annual Piperia Plan Studies and reporting are required for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (hereinafter, "PROJECT"); and

**WHEREAS**, additional time is necessary to allow the Parties to negotiate new tasks associated with 2012 Piperia Plan Studies required for completion of the PROJECT as required by the plan for management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to June 30, 2013 with no associated dollar amount increase to allow additional time to negotiate new tasks associated with 2012 Piperia Plan Studies necessary for completion of the PROJECT.

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

1. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:  
  
The term of this Agreement is from February 1, 2009 to June 30, 2013, unless sooner terminated pursuant to the terms of this Agreement.
2. All other terms and conditions of the Agreement remain unchanged and in full force.
3. This Amendment No. 4 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 4 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning Department  
Term: February 1, 2009 – June 30, 2013  
Not to Exceed: \$114,129.00





# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)

3/26/2012

<b>PRODUCER</b> ISU INS.SERV.-BC ENV.BROKERAGE 1037 SUNCAST LANE, SUITE 103 TORO, DORADO HILLS, CA 95762 (16) 939-1080		RECEIVED MAR 28 2012 PUBLIC WORKS ADMINISTRATION	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
<b>INSURED</b> ECOSYSTEMS WEST CONSULTING GROUP 180 7TH AVE. SUITE 201 SANTA CRUZ, CA 95062	<b>INSURERS AFFORDING COVERAGE</b>		<b>NAIC#</b>
	INSURER A:	ENDURANCE AMERICAN SPEC.INS.	41718
	INSURER B:	HARTFORD FIRE INSURANCE CO.	19682
	INSURER C:	SENTINEL INSURANCE CO. LTD.	11000
	INSURER D:		
	INSURER E:		

### COVERAGES

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

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YYYY)	POLICY EXPIRATION DATE(MM/DD/YYYY)	LIMITS	
A		GENERAL LIABILITY	ECC101008333-02	06/30/11	06/30/12	EACH OCCURRENCE	\$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000
		<input type="checkbox"/> CLAIMSMADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 5,000
		<input checked="" type="checkbox"/> CONT. POLLUTION				PERSONAL & ADV INJURY	\$ 1,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER				GENERAL AGGREGATE	\$ 2,000,000
		<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG	\$ 2,000,000
A		AUTOMOBILE LIABILITY	ECC101008333-02 INC. IN GL ABOVE	06/30/11	06/30/12	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
		<input type="checkbox"/> ANYAUTO				BODILY INJURY (Per person)	\$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
		<input checked="" type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
<input checked="" type="checkbox"/> HIRED AUTOS							
<input checked="" type="checkbox"/> NON-OWNED AUTOS							
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		<input type="checkbox"/> ANYAUTO				OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
		EXCESS / UMBRELLA LIABILITY				EACH OCCURRENCE	\$
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE				AGGREGATE	\$
		<input type="checkbox"/> DEDUCTIBLE					\$
		<input type="checkbox"/> RETENTION \$					\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	57 WEC DE7081	03/31/12	03/31/13	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS	OTH-ER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH)					
		If yes, describe under SPECIAL PROVISIONS below					
		E.L. EACH ACCIDENT				\$ 1,000,000	
<input type="checkbox"/> Y/N		E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000				
A		OTHER PROF. LIAB.	ECC101008333-02	06/30/11	06/30/12	\$1,000,000 OCCURRENCE	
C		INC. IN GL ABOVE	RETRO: 6/30/04			\$2,000,000 AGGREGATE	
		PROPERTY/EQUIP	57 SBA BA 0059	05/01/11	05/01/12		

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

RE: ALL OPERATIONS

MONTEREY COUNTY PLANNING & BUILDING INSPECTION DEPARTMENT HAS BEEN NAMED AS ADDITIONAL INSURED WITH RESPECT TO THE GENERAL LIABILITY. PRIMARY COVERAGE APPLIES.

(BLANKET ENDORSEMENT'S ATTACHED)

### CERTIFICATE HOLDER

MONTEREY COUNTY  
 PLANNING & BUILDING INSPECTION DEPT.  
 ATTN: MS. DALIA M. MARISCAL  
 168 W. ALISAL STREET, 2ND FLOOR  
 SALINAS, CA 93901

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

**AUTOMATIC ADDITIONAL INSURED –  
OWNERS, LESSEES OR CONTRACTORS**

---

This endorsement, effective 06/30/11 attaches to and forms a part of Policy Number ECC10100833302. This endorsement changes the Policy. Please read it carefully.

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS POLLUTION LIABILITY COVERAGE PART**

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.

FEI-319-ECC-0708

**AUTOMATIC PRIMARY AND NON-CONTRIBUTORY  
INSURANCE ENDORSEMENT –  
DESIGNATED WORK OR PROJECT(S)**

---

This endorsement, effective 06/30/11 attaches to and forms a part of Policy Number ECC10100833302. This endorsement changes the Policy. Please read it carefully.

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of \$ Applied, and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this policy shall be considered primary to any similar insurance held by third parties in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.

**AMENDMENT NO. 5  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ECOSYSTEMS WEST CONSULTING GROUP**

**THIS AMENDMENT NO. 5** to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures below.

**WHEREAS**, CONTRACTOR entered into a Professional Services Agreement with County on May 7, 2009 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the Parties on April 30, 2010 (hereinafter, "Amendment No. 1"), April 29, 2011 (hereinafter, "Amendment No. 2"), May 11, 2011 (hereinafter, "Amendment No. 3"), and June 27, 2012 (hereinafter, "Amendment No. 4"); and

**WHEREAS**, annual Piperia Plan Studies and reporting are required for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (hereinafter, "PROJECT"); and

**WHEREAS**, additional time is necessary to allow the Parties to negotiate new tasks associated with Piperia Plan Studies required for completion of the PROJECT as required by the plan for management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to June 30, 2015 with no associated dollar amount increase to allow additional time for the negotiation and inclusion of new tasks for completion of the PROJECT.

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

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

The term of this Agreement is from February 1, 2009 to June 30, 2015, unless sooner terminated pursuant to the terms of this Agreement.

2. All other terms and conditions of the Agreement remain unchanged and in full force.
3. This Amendment No. 5 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 5 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2012 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning  
Term: February 1, 2009 - June 30, 2015  
Not to Exceed: \$114,129.00

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 5 as of the last day opposite the respective signatures below:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By:   
Director of Planning

EcoSystems West Consulting Group  
Contractor's Business Name

Date: 6/7/13

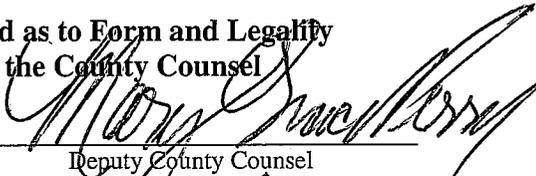
By:   
(Signature of Chair, President or Vice President)

Its: WILLIAM DAVILLA OWNER  
(Printed Name and Title)

Date: MAY 29th, 2013

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

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

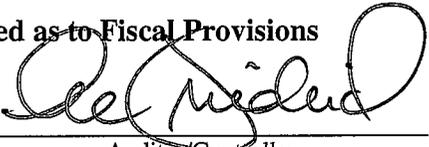
By:   
Deputy County Counsel

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

Date: 6-6-2013

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

**Approved as to Fiscal Provisions**

By:   
Auditor/Controller

Date: 6/4/13

**Approved as to Indemnity, Insurance Provisions**

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

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

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

Amendment No. 5 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2012 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning  
Term: February 1, 2009 - June 30, 2015  
Not to Exceed: \$114,129.00



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/22/2013

<b>PRODUCER</b> ISU INS.SERV.-BC ENV.BROKERAGE 1037 SUNCAST LANE, SUITE 103 EL DORADO HILLS, CA 95762 (916) 939-1080		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> ECOSYSTEMS WEST CONSULTING GROUP 180 7TH AVE. SUITE 201 SANTA CRUZ, CA 95062		<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
		INSURER A: ENDURANCE AMERICAN SPEC. INS.	41718
		INSURER B: HARTFORD INS CO OF MIDWEST	37478
		INSURER C: SENTINEL INSURANCE CO. LTD.	11000
		INSURER D:	
		INSURER E:	

**COVERAGES**

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

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>CONT. POLLUTION</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	ECC101008333-03	06/30/12	06/30/13	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANYAUTO <input type="checkbox"/> ALLOWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	ECC101008333-03 INC. IN GL ABOVE	06/30/12	06/30/13	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANYAUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> (Mandatory in Nh) If yes, describe under SPECIAL PROVISIONS below	57 WEC DE7081	03/31/13	03/31/14	<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
A		OTHER PROF. LIAB.	ECC101008333-03	06/30/12	06/30/13	\$1,000,000 OCCURRENCE
C		INC. IN GL ABOVE	RETRO: 6/30/04			\$2,000,000 AGGREGATE
		PROPERTY/EQUIP	57 SBA BA 0059	05/01/13	05/01/14	

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

RE: ALL OPERATIONS  
 MONTEREY COUNTY PLANNING & BUILDING INSPECTION DEPARTMENT HAS BEEN NAMED AS ADDITIONAL INSURED WITH RESPECT TO THE GENERAL LIABILITY. PRIMARY COVERAGE APPLIES.  
 (BLANKET ENDORSEMENTS ATTACHED)

<b>CERTIFICATE HOLDER</b> MONTEREY COUNTY PLANNING & BUILDING INSPECTION DEPT. ATTN: MS. DALIA M. MARISCAL 168 W. ALISAL STREET, 2ND FLOOR SALINAS, CA 93901	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE: <i>Matthew C Walker</i>
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## Automatic Additional Insured – Owners, Lessees or Contractors

---

This endorsement, effective 6/30/2012 attaches to and forms a part of Policy Number ECC101008333-03. This endorsement changes the Policy. Please read it carefully.

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This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS POLLUTION LIABILITY COVERAGE PART**

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.

**Additional Insured – Owners, Lessees or Contractors –  
Completed Operations**

This endorsement, effective 6/30/2012 attaches to and forms a part of Policy Number  
ECC101008333-03. This endorsement changes the Policy. Please read it carefully.

In consideration of an additional premium of \$Applied, this endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
<p align="center">Any person(s) or organization(s) whom the Named Insured agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.</p>	<p align="center">Those project locations where this endorsement is required by contract.</p>
<p align="center">Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

**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".

**Automatic Primary and Non-Contributory  
Insurance Endorsement  
Designated Work Or Project(s)**

---

This endorsement, effective 6/30/2012 attaches to and forms a part of Policy Number  
ECC101008333-03. This endorsement changes the Policy. Please read it carefully.

---

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of \$Applied and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this policy shall be considered primary to any similar insurance held by third parties in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.



## Monterey County

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

### Board Order

**Agreement No.'s: A-11684; A-11411**

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

- a. Approved Amendment No. 6 to Professional Services Agreement No. A-11684 with EcoSystems West Consulting Group where the Base Budget is increased by \$57,820, for a total amount not to exceed \$171,949, to allow payment of rendered services associated with completion of 2013 Piperia Plan Studies and to provide 2014 Piperia Plan Studies for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, and extend the term to June 30, 2016; and
- b. Approved Amendment No. 6 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget is increased by \$57,820 with no change to the County Surcharge of \$2,500, for a total amount not to exceed \$174,449, to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the Resource Management Agency - Planning for rendered services associated with the completion of 2013 Piperia Plan Studies, and to provide 2014 Piperia Plan Studies for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, and extend the term to June 30, 2016; and
- c. Authorized the Director of Planning to execute Amendment No. 6 to Professional Services Agreement No. A-11684, Amendment No. 6 to Reimbursement Agreement No. A-11411 and future amendments to these Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.  
(PLN100138/2009 - 2014 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan)

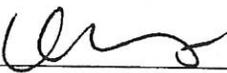
PASSED AND ADOPTED on this 16th day of December 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter  
NOES: None  
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on December 16, 2014.

Dated: December 18, 2014  
File Number: A 14-287

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

By   
Deputy

**AMENDMENT NO. 6  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ECOSYSTEMS WEST CONSULTING GROUP**

**THIS AMENDMENT NO. 6** to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") as of the last date opposite the respective signatures below.

**WHEREAS**, CONTRACTOR entered into a Professional Services Agreement with County on May 7, 2009 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the Parties on April 30, 2010 (hereinafter, "Amendment No. 1", including Exhibit A-1 – Scope of Services/Payment Provisions), April 29, 2011 (hereinafter, "Amendment No. 2"), May 11, 2011 (hereinafter, "Amendment No. 3", including Exhibit A-2 – Scope of Services/Payment Provisions), June 27, 2012 (hereinafter, "Amendment No. 4"), and June 7, 2013 (hereinafter, "Amendment No. 5") and incorporated into the Agreement by this reference; and

**WHEREAS**, annual Piperia Plan Studies and reporting continue to be required for 2013 and 2014 for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (hereinafter, "Project" or "Plan"); and

**WHEREAS**, additional time is necessary to allow for the 2014 Piperia Plan Studies and future Piperia Plan Studies for completion of the Project; and

**WHEREAS**, additional funding is necessary to allow payment to CONTRACTOR for services rendered toward completion of the 2013 Piperia Plan Studies for the Project and to allow CONTRACTOR to provide 2014 Piperia Plan Studies for completion of the Project as required by the Plan for the management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to June 30, 2016, to increase the amount by \$57,820 to allow payment to CONTRACTOR for services rendered toward the completion of the 2013 Piperia Plan Studies, and to allow CONTRACTOR to provide 2014 Piperia Plan Studies and future Piperia Plan Studies for completion of the Project as identified in the Agreement and as amended by this Amendment No. 6.

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

1. Amend Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1, A-2 and A-3** in conformity with the terms of this Agreement. The services are generally described as follows:

Amendment No. 6 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2014 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning  
Term: February 1, 2009 – June 30, 2016  
Not to Exceed: \$171,949.00

Provide 2009 – 2014 Piperia Plan Studies for the Pebble Beach Company’s Del Monte Forest Preservation and Development Plan. The 2013 and 2014 Piperia Plan Studies included in this Agreement are described in Exhibit A-3, Scope of Services/Payment Provisions.

2. Amend Paragraph 2, “Payments by County”, to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, A-2 and A-3**, 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 \$171,949.

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

The term of this Agreement is from February 1, 2009 to June 30, 2016, unless sooner terminated pursuant to the terms of this Agreement

4. Amend Paragraph 4, “Additional Provisions/Exhibits”, by adding “Exhibit A-3, Scope of Services/Payment Provisions”.

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

6. This Amendment No. 6 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

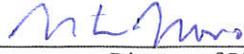
7. The recitals to this Amendment No. 6 are incorporated into the Agreement and this Amendment No. 6.

Amendment No. 6 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2014 Piperia Plan Studies for The Pebble Beach Company’s  
Del Monte Forest Preservation and Development Plan  
RMA – Planning  
Term: February 1, 2009 – June 30, 2016  
Not to Exceed: \$171,949.00

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 6 to the Agreement as of the last date opposite the respective signatures below:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By:   
Director of Planning

EcoSystems West Consulting Group  
Contractor's Business Name

Date: 12/19/14

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

Its: William Davilla, OWNER  
(Printed Name and Title)

Date: OCT 21, 2014

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

By:   
Deputy County Counsel

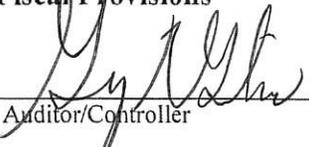
By: SOLE PROPRIETORSHIP  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

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

Date: 12-3-2014

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

**Approved as to Fiscal Provisions**

By:   
Auditor/Controller

Date: 11-5-14

**Approved as to Indemnity, Insurance Provisions**

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

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

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

Amendment No. 6 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2014 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning  
Term: February 1, 2009 - June 30, 2016  
Not to Exceed: \$171,949.00

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### 2013 and 2014 Piperia Studies and CEQA Review

DURATION: February 2013–January 2014 and February 2014 – June 2015

#### SCOPE

In project year 2013 and 2014, EcoSystems West Consulting Group (EcoSystems) will continue to monitor research plots established between 2005 and 2007 to inform habitat management, enhancement, and transplantation projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest (DMF). The studies were identified by the project Adaptive Management Team (AMT) as priorities for research as part of Phase 1A testing of the Final Piperia Plan, which is being developed to mitigate impacts of the DMF Preservation and Development Plan (DMF/PDP). Though changes to the proposed development may render the Final Piperia Plan as unnecessary as previously outlined, the research program has been recognized by the AMT as invaluable for informing management of protected habitat within the DMF in order to conserve *Piperia yadonii*. Moreover, results of the research can be used to design successful enhancement projects to mitigate the impacts of other future development within the region.

This scope of work describes monitoring of previously established research studies for the <sup>29</sup> month period beginning in February 2013 and through June 2015. In addition, due to the one year hiatus of monitoring in 2012, following the completion of the 2015 field data gathering, EcoSystems will enter the data for these three field years and conduct statistical analysis to evaluate the 2013, 2014 and 2015 status of *Piperia yadonii* populations to compare with previous years to see if results are within the range of population demographics seen in previous years.

#### TASKS

*WR*  
(Contractor's Initials)

11/24/14  
(Date)

Task 1: Conduct California Environmental Quality Act (CEQA) Review of the Proposed Pebble Beach DMF Plan Development Impacts on *Piperia yadonii*

Because modifications to the proposed development project may render mass salvage and translocation of *Piperia yadonii* tubers unnecessary, this scope of work *does not* include additional effort to design a salvage and transplantation process, as were included as part of Task 1 in prior scopes of work and reports.

Task 2: Investigate Horticultural Techniques for *Piperia yadonii*

#### Question

What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?

#### Background

In 2006, EcoSystems established a series of trials to examine techniques to successfully translocate and store *Piperia yadonii* tubers obtained from the development area at Units MNOUV (known geographic reference area) within the DMF, as well as store seed used in experiments evaluating factors influencing seedling establishment in the other areas (EcoSystems West Consulting Group 2007). Ongoing monitoring of these trials can increase understanding of the ecology of *Piperia yadonii*, and be used to design habitat management and enhancement efforts. The following ongoing tasks are recommended to obtain answers to the original questions posed.

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 2.1: Evaluate Tuber Storage

In the fall of 2006, EcoSystems established a study comparing the efficacy of storing tubers in flats with soil in a lath house, a greenhouse, and within the Monterey Pine Forest. In the fall of 2007, the tubers were excavated and examined, then re-potted into larger containers that allow monitoring of individual demographic performance. The following tasks will increase understanding of *Piperia yadonii* tuber biology through evaluation of their performance *ex situ*.

**2.1.1 Monitor Vegetative Status:** In the spring of 2013 and 2014, EcoSystems will examine whether each tuber produced a vegetation plant, and if so, measure the number of leaves and longest leaf length.

**2.1.2 Monitor Reproductive Status:** In the summer of 2013 and 2014, EcoSystems will determine the proportion of vegetation plants that reproduced, were diseased, and/or browsed.

**2.1.3 Data Analysis:** This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

### Task 2.2: Evaluate Success of Translocated *Piperia yadonii*

In the fall of 2006, a tree spade was used to translocate five (5) soil cores containing *Piperia yadonii* from three (3) donor sites to three (3) receiver sites within MNOUV. In the spring of 2007, five (5), unmoved control plots were established to facilitate examination of the effects of translocation. In addition to informing success of tuber salvage and translocation, this study can increase understanding of *Piperia yadonii* biology needed to inform conservation, by for example, helping understand what constitutes appropriate habitat for the endangered orchid, as tubers were translocated into apparently suitable but unoccupied habitat. The following steps are proposed to evaluate success of the transplantation treatment.

**2.2.1 Monitor Vegetative Plant Status:** In the spring of 2013 and 2014, EcoSystems will measure the following in each of the five (5) translocation cores and five (5) control plots:

- Number of vegetative *Piperia*: one (1) leaf, two (2) leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of ten (10) randomly chosen plants in each plot).

**2.2.2 Monitor Reproductive Plant Status:** In the summer of 2013 and 2014, EcoSystems will measure the following within each of the five (5) translocation cores and five (5) control plots:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of ten (10) randomly chosen plants

**2.2.3 Data Analysis:** This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 2.3: Seed Storage Studies

This study has been completed in 2008. No additional studies are proposed.

### Task 2.4: Horticultural Techniques Data Entry and Analysis

This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

### Task 3: Experimental Evaluation of *Piperia yadonii* Regeneration Niche and Establishment Following Exotic Plant Removal

#### Question

What factors might influence establishment of *Piperia yadonii* from seed following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *Piperia yadonii*?

#### Background

In spring 2006, EcoSystems established a small-scale manipulative experiment to evaluate the independent and interactive effects of factors hypothesized to influence seedling establishment following removal of three (3) types of exotic plants most commonly observed in or adjacent to habitat occupied by *Piperia yadonii*: 1) French broom, 2) *Acacia* species (there are more than one in the DMF/PDP areas), and 3) rattlesnake grass. This experiment also included litter removal and seed addition treatments designed to examine the independent and interactive effects of removing litter and adding the seed of *Piperia yadonii* to establish populations of the rare plant in exotic plant treatment areas, as well as areas of apparently suitable but unoccupied habitat. In 2007, additional litter removal and seed addition plots were added to the ten (10) experimental blocks located within suitable but unoccupied habitat, allowing examination of the effects of inter-annual variability in weather on *Piperia yadonii* establishment.

EcoSystems proposes the following steps to evaluate the effects of these experimental treatments to inform design of enhancement treatments, as well as management of *Piperia yadonii* habitat.

**3.1 Monitor Vegetative Plant Status:** In the spring of 2013 and 2014, EcoSystems will revisit each of the 176, 1 m<sup>2</sup> plots established in this experiment to measure the following:

- Number of vegetative *Piperia*: one (1) leaf, two (2) leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of ten (10) randomly chosen plants in each plot).

**3.2 Monitor Reproductive Plant Status:** In the summer of 2013 and 2014, EcoSystems will revisit the treatment plots that had vegetative *Piperia* in the spring to measure following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of ten (10) randomly chosen plants

**3.3 Analysis and Reporting:** This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 4: Examine Habitat Factors Influencing *Piperia yadonii* Performance

#### Question

What habitat factors influence the interannual variability in *Piperia yadonii* individual and population performance?

#### Background

The *Piperia yadonii* habitat characterization indicated that, within the DMF, *Piperia yadonii* occurs within a range of habitat conditions, in terms of plant community composition, soil conditions, and vegetation structure (EcoSystems West Consulting Group 2006). However, it is not currently known whether habitat conditions influence individual plant or patch performance, and thus population persistence. Indeed, there is little basic information available about the demographic rates for *Piperia yadonii*. This information can increase understanding of the biology of *Piperia yadonii* needed to inform habitat management and enhancement, as well as to evaluate their effectiveness.

**4.1 Examine Vegetative Plants:** The fifty-four (54) permanent *Piperia yadonii* sites established in the fourteen (14) DMF/PDP areas west of Highway 1 as part of the *Piperia yadonii* Habitat Characterization will be revisited during the spring of 2013 and 2014 to collect the following data:

- Number of vegetative *Piperia*: one (1) leaf, two (2) leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of ten (10) randomly chosen plants in each plot)
- Status of the five (5) target (marked) plants (aboveground vs. dormant, size if aboveground)

**4.2 Monitor Reproductive Plant Status:** In the summer of 2013 and 2014, EcoSystems will revisit the permanent plots to measure the following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of ten (10) randomly chosen plants
- Reproductive status of the five (5) target plants (whether flowered, browsed, diseased, and number of fruits produced)

**4.3 Data Analysis and Reporting:** This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

**Task 5: Establish Herbivory Effects of Experiment – Not applicable at this time.**

### Task 6: Coordinate AMT

As part of EcoSystems' work on this project, EcoSystems will coordinate and participate in the AMT that will review and guide implementation of these studies. In order to reduce costs associated with more frequent meetings, EcoSystems proposes that the AMT meet two (2) times via short one (1) hour teleconferences:

- May 2013 and 2014: Telephone conference call to discuss spring work
- November 2013 and 2014: Telephone conference call to discuss summer work

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### **Task 7: Project Management**

Project management will consist of short phone updates with County of Monterey (County) project staff and The Pebble Beach Company project staff. No formal progress reports will be prepared as a cost savings measure.

### **Task 8: Summary Reports of Piperia Studies**

This Task will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 Piperia Studies summary report.

EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

EcoSystems West Consulting Group  
 Table 1 - Cost Proposal to Conduct Determination of Habitat and Reproductive Requirements for Yadon's *Piperia*: 2013 Studies

2/13/2013

Expense Type	Personnel	Subtask 2.1	Subtask 2.2	Subtask 3.1	Subtask 3.2	Subtask 4.1	Subtask 4.2	Task 6	Task 7	Total	Rates	Total Cost	
Technical	Project Manager (Bill Davilla) Lead Botanist (McGraw/J. Davilla)	2 8	2 8	2 16	2 16	4 96	4 68	4 4	4 8	36 224 0	\$125.00 \$99.50 \$70.00	\$4,500.00 \$22,288.00 \$0.00	
Support	Word Processing/Report Production/Graphics	10	10	18	18	100	72	8	24	260		\$26,788.00	
Total Cost Labor		\$1,046	\$1,046	\$1,842	\$1,842	\$10,052	\$7,266	\$898	\$2,796				
ODCs	Mileage (total miles all trips) Per Diem (includes lodging and meals) Field Equip/Supplies Photocopy/Graphics Reproduction	200 0 \$0.00 \$0.00	400 0 \$0.00 \$0.00	400 0 \$0.00 \$0.00	400 0 \$0.00 \$0.00	800 3 \$25.00 \$0.00	600 3 \$0.00 \$0.00	0 0 \$0.00 \$0.00	0 0 \$0.00 \$0.00	0 6 \$25.00 \$50.00	2800	\$0.565 \$120.00	\$1,582.00 \$720.00 \$25.00 \$50.00
Total ODCs		\$113	\$226	\$226	\$226	\$837	\$699	\$50	\$0	\$2,377		\$2,377.00	
Total Cost by Subtask		\$1,159	\$1,272	\$2,068	\$2,068	\$10,889	\$7,965	\$948	\$2,796			\$29,165.00	
Grand Total													

- Task 2: Investigate Horticultural Techniques for *Piperia yadonii*
  - Subtask 2.1: Evaluate Tuber Storage
  - Subtask 2.2: Evaluate Success of Translocated *Piperia yadonii*
- Task 3: Experimental Evaluation of *Piperia yadonii* Regeneration Niche and Establishment Following Exotic Plant Removal
  - Subtask 3.1: Monitor Vegetative Plant Status
  - Subtask 3.2: Monitor Reproductive Plant Status
- Task 4: Examine Habitat Factors Influencing *P. yadonii* Performance
  - Subtask 4.1: Examine Vegetative Plants
  - Subtask 4.2: Monitor Reproductive Plant Status
- Task 6: Coordinate AMT Meetings
- Task 7: Project Management

EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

EcoSystems West Consulting Group  
 Table 2: Cost Proposal to Conduct Determination of Habitat and Reproductive Requirements for Yadon's Piperia: 2014 Studies

2/24/2014

Expense Type	Personnel	Subtask 2.1	Subtask 2.2	Subtask 3.1	Subtask 3.2	Subtask 4.1	Subtask 4.2	Task 6	Task 7	Total	Rates	Total Cost
Technical	Project Manager (Bill Davilla)	2	2	2	2	4	4	4	16	36	\$125.00	\$4,500.00
	Lead Botanists (McGraw/J. Davilla)	8	8	16	16	96	68	4	8	224	\$99.50	\$22,288.00
Support	Word Processing/Report Production/Graphics	10	10	18	18	100	72	8	24	260	\$70.00	\$0.00
Total Hours		\$1,046	\$1,046	\$1,842	\$1,842	\$10,052	\$7,266	\$898	\$2,796			\$26,788.00
Total Cost Labor												
ODCs	Mileage (total miles all trips)	200	400	400	400	1000	800	0	0	3200	\$0.560	\$1,792.00
	Per Diem (includes lodging and meals)	0	0	0	0	0	0	0	0	0	\$120.00	\$0.00
	Field Equip/Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00	\$25.00		\$25.00
	Photocopy/Graphics Reproduction	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00
Total ODC's		\$112	\$224	\$224	\$224	\$585	\$448	\$50	\$0	\$1,867		\$1,867.00
Total Cost by Subtask		\$1,158	\$1,270	\$2,066	\$2,066	\$10,637	\$7,714	\$948	\$2,796			\$28,655.00
Grand Total												

Task 2: Investigate Horticultural Techniques for Piperia yadonii  
 Subtask 2.1: Evaluate Tuber Storage  
 Subtask 2.2: Evaluate Success of Translocated Piperia yadonii  
 Task 3: Experimental Evaluation of Piperia yadonii Regeneration Niche and Establishment Following Exotic Plant Removal  
 Subtask 3.1: Monitor Vegetative Plant Status  
 Subtask 3.2: Monitor Reproductive Plant Status  
 Task 4: Habitat Factors Influencing P. yadonii Performance  
 Subtask 4.1: Examine Vegetative Plants  
 Subtask 4.2: Monitor Reproductive Plant Status  
 Task 6: Coordinate AMT Meetings  
 Task 7: Project Management

EXHIBIT A-3 – SCOPE OF SERVICES/PAYMENT PROVISIONS

PAYMENT PROVISIONS

Invoices for services performed under the AGREEMENT shall be submitted quarterly based upon a percentage of task completion and delivery of the final product and shall include the following:

1. Invoice Coversheet

EcoSystems West Consulting Group
2009-2014 Piperia Plan Studies and CEQA Review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan

Date: Invoice No.

Original Agreement Term: February 1, 2009 to April 30, 2010

Original Agreement Amount: \$ 24,999.00 (\$24,999.00 base budget plus \$0.00 project contingency)

Amendment No. 1: \$ 24,965.00 (\$24,965.00 base budget plus \$0.00 project contingency) Extension of Term to April 30, 2011

Amendment No. 2: Extension of Term to June 30, 2012

Amendment No. 3: \$ 64,165.00 (\$64,165.00 base budget plus \$0.00 project contingency)

Amendment No. 4: Extension of Term to June 30, 2013

Amendment No. 5: Extension of Term to June 30, 2015

Amendment No. 6: \$ 57,820.00 (\$57,820.00 base budget plus \$0.00 project contingency) Extension of Term to June 30, 2016

Total Agreement Amount: \$171,949.00 (\$171,949.00 base budget plus \$0.00 project contingency)

Prior Invoices: \$ (Under this Agreement)

This Invoice: \$

Remaining Balance \$

Approved as to Work/Payment: Joseph Sidor, Associate Planner Date

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

2. Invoice Detail

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



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/13/2014

<b>PRODUCER</b> ISU INS SERV - BC ENV BROKERAGE 1037 SUNCAST LANE, SUITE 103 EL DORADO HILLS, CA 95762 (916) 939-1080		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> ECOSYSTEMS WEST CONSULTING GROUP 180 7TH AVE. SUITE 201 SANTA CRUZ, CA 95062		<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
		INSURER A: ADMIRAL INSURANCE COMPANY	24856
		INSURER B: HARTFORD INS CO OF MIDWEST	37478
		INSURER C: SENTINEL INSURANCE CO. LTD.	11000
		INSURER D:	
		INSURER E:	

## COVERAGES

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

INSR LTR	ADD'L NSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONT. POLLUTION GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC.	FEI-ECC-16281-01	06/30/14	06/30/15	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPOP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANYAUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	FEI-ECC-16281-01 INC. IN GL ABOVE	06/30/14	06/30/15	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANYAUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	57 WEC DE7081	03/31/14	03/31/15	<input checked="" type="checkbox"/> WC STATU-TORY 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
A		OTHER PROF. LIAB.	FEI-ECC-16281-01	06/30/14	06/30/15	\$1,000,000 OCCURRENCE
C		CLAIMS MADE	RETRO: 06/30/04			\$2,000,000 AGGREGATE
		PROPERTY/EQUIP	57 SBA BA 0059	05/01/14	05/01/15	

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

RE: PIPERIA PLAN STUDIES

THE COUNTY OF MONTEREY, ITS AGENTS, OFFICERS AND EMPLOYEES HAVE BEEN NAMED AS ADDITIONAL INSURED WITH RESPECT TO THE GENERAL LIABILITY. PRIMARY COVERAGE APPLIES. (BLANKET ENDORSEMENTS ATTACHED)

<b>CERTIFICATE HOLDER</b> COUNTY OF MONTEREY CONTRACTS/PURCHASING DEPARTMENT 168 W. ALISAL STREET, 3RD FLOOR SALINAS, CA 93901 ATTN: SHELLEY DICKINSON	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER SHALL ADVISE BY MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE: <i>Matthew C Walker</i>
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ACORD 25 (2009/01)

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## Automatic Additional Insured – Owners, Lessees or Contractors

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This endorsement, effective 6/30/2014 attaches to and forms a part of Policy Number FEI-ECC-16281-01. This endorsement changes the Policy. Please read it carefully.

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This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART CONTRACTORS POLLUTION LIABILITY COVERAGE PART

#### SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.



### Additional Insured – Owners, Lessees or Contractors – Completed Operations

This endorsement, effective 6/30/2014 attaches to and forms a part of Policy Number FEI-ECC-16281-01. This endorsement changes the Policy. Please read it carefully.

In consideration of an additional premium of \$Applied, this endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

##### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Any person(s) or organization(s) whom the Named Insured agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.	Those project locations where this endorsement is required by 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".



## Automatic Primary and Non-Contributory Insurance Endorsement Designated Work Or Project(s)

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This endorsement, effective 6/30/2014 attaches to and forms a part of Policy Number FEI-ECC-16281-01. This endorsement changes the Policy. Please read it carefully.

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### SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of \$Applied and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this policy shall be considered primary to any similar insurance held by third parties in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.

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

**Agreement No: A-11411**

- a. Approve a Reimbursement Agreement with The Pebble Beach Company where the Base Budget is \$24,999, the County Surcharge is \$2,500, for a total amount not to exceed \$27,499, to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2010; and )
- b. Authorize the Director of Planning to execute the Reimbursement Agreement and future amendments to this Agreement where the amendments do not exceed ten percent (10%) of the original Agreement amount and do not significantly alter the scope of work. )
- (Reimbursement Agreement - PD060822/EcoSystems West Consulting Group, County-wide) )

Upon motion of Supervisor Salinas, seconded by Supervisor Parker, and carried by those members present, the Board hereby:

- a. Approved a Reimbursement Agreement with The Pebble Beach Company where the Base Budget is \$24,999, the County Surcharge is \$2,500, for a total amount not to exceed \$27,499, to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2010; and
- b. Authorized the Director of Planning to execute the Reimbursement Agreement and future amendments to this Agreement where the amendments do not exceed ten percent (10%) of the original Agreement amount and do not significantly alter the scope of work.
- (Reimbursement Agreement - PD060822/EcoSystems West Consulting Group, County-wide)

PASSED AND ADOPTED this 28<sup>th</sup> day of April, 2009, by the following vote, to wit:

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

NOES: None

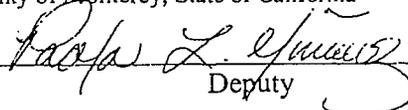
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 74 for the meeting on April 28, 2009.

Dated: May 1, 2009

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

By

  
Deputy

**REIMBURSEMENT AGREEMENT  
FOR  
2009 PIPERIA PLAN STUDIES FOR THE PEBBLE BEACH COMPANY'S  
DEL MONTE FOREST PRESERVATION AND DEVELOPMENT PLAN**

**THIS REIMBURSEMENT AGREEMENT**, hereinafter, "AGREEMENT", is made and entered by and between the County of Monterey, a political subdivision of the State of California, hereinafter, "COUNTY", and The Pebble Beach Company, hereinafter, "PROJECT APPLICANT", with reference to the following facts and circumstances:

**RECITALS**

A. PROJECT APPLICANT has applied to COUNTY for approval of various development permits for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan, referred to herein as THE PROJECT. As a condition of PROJECT approval, COUNTY has required PROJECT APPLICANT to fund the development and implementation of a long-term Piperia Plan, referred to herein as THE PIPERIA PLAN, and that this plan be developed by a third-party consultant selected by COUNTY.

B. The Director of the Monterey County Planning Department, hereinafter, DIRECTOR, and PROJECT APPLICANT agree that it is necessary and desirable that COUNTY engage EcoSystem West Consulting Group, hereinafter, CONTRACTOR, to prepare the 2009 Piperia Plan Studies, attend meetings, and perform related work. CONTRACTOR shall perform the Scope of Work specified in the Professional Services Agreement between COUNTY and CONTRACTOR, attached to this AGREEMENT as Exhibit "1", and incorporated herein by reference as if fully set forth. COUNTY shall manage THE PIPERIA PLAN performed by CONTRACTOR.

C. A fundamental premise of this AGREEMENT is that nothing is to be construed as a representation, promise, or commitment on the part of COUNTY to give special treatment to, or exercise its discretion favorably for THE PROJECT, in exchange for PROJECT APPLICANT'S obligation to reimburse COUNTY for the cost of retaining CONTRACTOR.

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

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

1

Reimbursement Agreement  
The Pebble Beach Company  
2009 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - April 30, 2010  
Not to Exceed: \$27,499.00

1. Deposit to Fund COUNTY Surcharge – Planning Department. PROJECT APPLICANT shall deposit an amount equal to the COUNTY Surcharge based on ten percent (10%) of CONTRACTOR'S budget. This amount totals \$2,500.00.

PROJECT APPLICANT shall deposit a total amount of \$2,500.00 with COUNTY Planning Department by March 31, 2009.

PROJECT APPLICANT'S deposit of \$2,500.00 with COUNTY shall be a condition precedent to COUNTY'S obligation under this AGREEMENT.

2. Funding.

a. COUNTY Surcharge – Planning Department.

A maximum COUNTY Surcharge of ten percent (10%) of CONTRACTOR'S Base Budget, in an amount not to exceed \$2,500.00, shall apply to this AGREEMENT. This surcharge is to cover the additional expense of COUNTY Planning Department project management and contract administration.

Actual surcharges, based on time and material charges, shall be assessed on an hourly basis for COUNTY staff time related to THE PIPERIA PLAN. A budget for these charges is allocated as follows:

Planning Department	\$ 2,500.00
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Any unused portion of this surcharge is refundable.

3. Engagement of CONTRACTOR. COUNTY shall engage CONTRACTOR in accordance with the contract between COUNTY and CONTRACTOR attached hereto and incorporated by this reference as Exhibit 1. CONTRACTOR shall be responsible only to COUNTY, and nothing in this AGREEMENT imposes any obligation on COUNTY or CONTRACTOR to PROJECT APPLICANT other than to devote the time and attention to preparing THE PIPERIA PLAN and related work. COUNTY shall provide direction and guidance to CONTRACTOR. CONTRACTOR'S contact(s) with PROJECT APPLICANT shall only be through COUNTY; and PROJECT APPLICANT, its agents, employees, consultants, representatives or partners shall not contact CONTRACTOR directly in any manner unless at a public hearing, meeting, or workshop.

4. Reimbursement.

a. CONTRACTOR'S Invoices.

PROJECT APPLICANT shall reimburse COUNTY the full cost of employing CONTRACTOR in accordance with the terms of Exhibit "1" of this AGREEMENT.

Maximum Reimbursement Under AGREEMENT.

The maximum which may be charged to PROJECT APPLICANT under this AGREEMENT is \$27,499.00:

CONTRACTOR'S Budget:	\$ 24,999.00
COUNTY Surcharge:	\$ 2,500.00

Maximum to be Reimbursed Under AGREEMENT:            \$ 27,499.00

b. Reimbursement Procedures.

COUNTY shall submit an official invoice to PROJECT APPLICANT on a quarterly basis, beginning May 1, 2009. Thereafter, not later than the last day of each following quarter, COUNTY shall submit to PROJECT APPLICANT an invoice setting forth the amount of compensation paid to CONTRACTOR.

In its quarterly invoices, COUNTY shall itemize the costs submitted by CONTRACTOR. Invoices shall provide a detailed breakdown of the time worked on each task, the person completing the work, the hourly rates, and expenses.

PROJECT APPLICANT shall honor all invoices submitted by COUNTY for services of CONTRACTOR performed before the date of termination of AGREEMENT.

PROJECT APPLICANT shall process invoices and provide payment to the COUNTY within thirty (30) days of receipt of an invoice.

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

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

7. Term. AGREEMENT shall become effective February 1, 2009 and continue through April 30, 2010, unless terminated pursuant to Paragraph 8 of AGREEMENT.

8. Termination. AGREEMENT shall terminate on April 30, 2010, but may be terminated earlier by PROJECT APPLICANT or COUNTY, by giving fourteen (14) days written notice to the other. Upon such termination, PROJECT APPLICANT shall immediately pay any outstanding invoices, as well as pay for any work performed by CONTRACTOR through effective date of termination.

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

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

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

12. Amendment. This AGREEMENT may be amended, modified or supplemented only in writing by both COUNTY and PROJECT APPLICANT.

13. Contracting Officer. The contracting officer of COUNTY, and the only entity authorized by law to make or amend AGREEMENT on behalf of COUNTY, is the Monterey County Board of Supervisors.

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

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

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

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

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

19. Indemnification. PROJECT APPLICANT agrees to defend, indemnify and hold COUNTY harmless in any action brought by any third party in which the authority of the COUNTY to enter into AGREEMENT or the validity of AGREEMENT is challenged.

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

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

TO PROJECT  
APPLICANT:         Mark Stilwell  
Executive Vice President  
The Pebble Beach Company  
Real Estate Division  
P.O. Box 1767  
Pebble Beach, CA 93953

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

IN WITNESS WHEREOF, PROJECT APPLICANT and COUNTY have executed AGREEMENT to be effective on the date first above written.

THE COUNTY OF MONTEREY

By: Mike Novo  
Mike Novo, AICP  
Director of Planning

Date: 5/6/09

PROJECT APPLICANT\*

By: Mark St. Quill  
(Signature of Chair, President or Vice President)

Its: Executive VP + General Counsel  
(Name and Title)

Date: 3-31-09

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

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

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

Approved as to Form

By: Annalisa A. Jasso  
Deputy County Counsel

Date: 3-16-09

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

# **EXHIBIT 1**

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
ECOSYSTEMS WEST CONSULTING GROUP  
AND THE COUNTY OF MONTEREY  
FOR THE  
2009 PIPERIA PLAN STUDIES  
FOR  
THE PEBBLE BEACH COMPANY'S  
DEL MONTE FOREST PRESERVATION AND  
DEVELOPMENT PLAN**

7

Reimbursement Agreement  
The Pebble Beach Company  
2009 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning Department  
Term: February 1, 2009 – April 30, 2010  
Not to Exceed: \$27,499.00

**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES**  
**(NOT TO EXCEED \$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:

EcoSystems West Consulting Group  
(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 2009 Piperia Plan Studies for the Pebble Beach Company's Del Monte Forest Preservation and Development Plan

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 \$ 24,999.00.

3. **TERM OF AGREEMENT.** The term of this Agreement is from February 1, 2009 to April 30, 2010, 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**

**Exhibit B**     **Justification to Professional Liability Insurance**

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.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR

shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6. PAYMENT CONDITIONS.

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

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

## 7. TERMINATION.

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

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

8. **INDEMNIFICATION.** Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

## 9. 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 the County has approved such insurance. 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, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

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

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

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

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

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

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

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

9.04. Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the

policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

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

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

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

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

## 10. RECORDS AND CONFIDENTIALITY.

10.01. Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

10.02. County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.

10.03. Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04. Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.05. Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this

Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

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

FOR COUNTY:	FOR CONTRACTOR:
Dalia M. Mariscal-Martinez, Mgmt. Analyst II	Bill Davilla, Principal
Name and Title	Name and Title
County of Monterey Resource Management Agency 168 W. Alisal Street, 2nd Floor, Salinas, CA 93901	EcoSystems West Consulting Group 819 1/2 Pacific Avenue, Suite 4, Santa Cruz, CA 95060
Address	Address
(831) 755-8966	(831) 429-6730
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.

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

~~COUNTY OF MONTEREY~~

CONTRACTOR

By: [Signature]  
Contracts/Purchasing Officer  
Date: 5-7-09

EcoSystems West Consulting Group  
Contractor's Business Name\*

By: \_\_\_\_\_  
Department Head (if applicable)  
Date: \_\_\_\_\_

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

Approved as to Form<sup>1</sup>  
By: Cynthia L. Hudson  
County Counsel  
Date: 3-16-09

WILLIAM DAVILLA GUNER  
Name and Title

Date: 4-14-2009

Approved as to Fiscal Provisions<sup>2</sup>  
By: [Signature]  
Auditor/Controller  
Date: 4-17-09

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

\_\_\_\_\_  
Name and Title

RISK MANAGEMENT  
COUNTY OF MONTEREY  
Approved as to Liability Provisions<sup>3</sup> / INDEMNITY/  
INSURANCE LANGUAGE  
By: [Signature]  
Risk Management  
Date: 4-21-09

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

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

<sup>1</sup>Approval by County Counsel is required only if changes are made to the standard provisions of the PSA  
<sup>2</sup>Approval by Auditor/Controller is required  
<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

TITLE: 2009 Piperia Studies

DURATION: February 2009 –January 2010

### SCOPE

In this project, we will continue to monitor research plots established between 2005 and 2007 to inform habitat management, enhancement, and transplantation projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest. The studies were identified by the project Adaptive Management Team (AMT) as priorities for research as part of Phase 1 a testing of the Final Piperia Plan, which was being developed to mitigate impacts of the Del Monte Forest Preservation and Development Plan (DMF/PDP). Though changes to the proposed development may render unnecessary the Final Piperia Plan, at least as previously outlined, the research program has been recognized by the AMT as invaluable for informing management of protected habitat within the Del Monte Forest in order to conserve Yadon's piperia. Moreover, results of the research can be used to design successful enhancement projects to mitigate the impacts of other future development within the region.

This scope of work describes monitoring of previously established research studies for the 12 month period beginning in February 2009.

### INTRODUCTION

The ongoing research in this project is designed to answer the following main questions:

1. What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?
2. What factors might influence establishment of *Piperia yadonii* from seed and success of *P. yadonii* establishment following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?
3. What habitat factors influence *P. yadonii* individual and population performance?

These questions were identified by the AMT as being most important to inform enhancement, management, and/or transplantation of Yadon's piperia. For each question, we provide background information about the relevance to conservation and management, and describe study methods for 2009. The reader is referred to the Report of the 2006-2007 Piperia Plan Studies (EcoSystems West Consulting Group 2008) for more detail about the studies for which ongoing monitoring is recommended in 2009. Also described is proposed work on two additional tasks associated with project implementation: convening the Adaptive Management Team and project management.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### TASKS

Because modifications to the proposed development project may render mass salvage and translocation of Yadon's piperia tubers unnecessary, this scope of work *does not* include additional effort to design a salvage and transplantation process, as were included as part of Task 1 in prior scopes of work and reports. Task 1 is skipped below and instead this scope of work begins with Task 2, to maintain continuity in task numbering with prior reports and proposals.

#### Task 2: Investigate Horticultural Techniques for *P. yadonii*

##### Question

What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?

##### Background

In 2006, we established a series of trials to examine techniques to successfully translocate and store *P. yadonii* tubers obtained from the development area at MNOUV, as well as store seed used in experiments evaluating factors influencing seedling establishment in the other areas (EcoSystems West Consulting Group 2007). Ongoing monitoring of these trials can increase understanding of the ecology of Yadon's piperia, and be used to design habitat management and enhancement efforts. The following ongoing tasks are recommended to obtain answers to the original questions posed.

##### Task 2.1: Evaluate Tuber Storage

In fall 2006, we established a study comparing the efficacy of storing tubers in flats with soil in a lath house, a greenhouse, and within the Monterey Pine Forest. In fall 2007, the tubers were excavated and examined, then re-potted into larger containers that allow monitoring of individual demographic performance. The following tasks will increase understanding of Yadon's piperia tuber biology through evaluation of their performance *ex situ*.

- 2.1.1 **Monitor Vegetative Status:** In spring, we will examine whether each tuber produced a vegetation plant, and if so, measure the number of leaves and longest leaf length.
- 2.1.2 **Monitor Reproductive Status:** In summer, we will determine the proportion of vegetation plants that reproduced, were diseased, and/or browsed.
- 2.1.3 **Data Analysis:** We will compare *P. yadonii* emergence rates, size structure, mean plant size, and reproductive rates among the three storage treatments, and relate individual performance to tuber size as measured in fall 2007.

##### Task 2.2: Evaluate Success of Translocated *Piperia yadonii*

In fall 2006, a tree spade was used to translocate five soil cores containing *P. yadonii* from three donor sites to three receiver sites within MNOUV. In spring 2007, five unmoved control plots were established to facilitate examination of the effects of translocation. In addition to informing success of tuber salvage and translocation, this study can increase understanding of Yadon's piperia biology needed to inform conservation, by for example, helping understand what constitutes appropriate habitat for the endangered orchid, as tubers were translocated into apparently suitable but unoccupied habitat. The following steps are proposed to evaluate success of the transplantation treatment.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

**2.2.1 Monitor Vegetative Plant Status:** In the spring, we will measure the following in each of the five translocation cores and 5 control plots:

- Number of vegetative *Piperia*: one leaf, two leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

**2.2.2 Monitor Reproductive Plant Status:** In summer, we will measure the following within each of the 5 translocation cores and 5 control plots:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

~~2.2.3 Data Analysis: The data collected will be compared to that obtained from 2006-2008 to calculate changes in aboveground emergence rates, plant size, flowering rates, and fecundity, and to evaluate whether these changes differed between the translocation trials and control plots, and within plots in varying habitat conditions.~~

WGH  
(initials)

### Task 2.3 Report of Results from Horticultural Investigation

Based on our analyses, we will prepare a report documenting the studies conducted in Tasks 2.1 and 2.2. The report will describe the methods used, the results of the individual investigations, and discuss their relevance for enhancement and management, as well as transplantation.

### Task 3: Experimental evaluation of *Piperia yadonii* regeneration niche and establishment following exotic plant removal

#### Question

What factors might influence establishment of *Piperia yadonii* from seed following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?

#### Background

In spring 2006, we established a small-scale manipulative experiment to evaluate the independent and interactive effects of factors hypothesized to influence seedling establishment following removal of three types of exotic plants most commonly observed in or adjacent to habitat occupied by *Piperia yadonii*: 1) French broom, 2) *Acacia* species (there are more than one in the DMF/PDP Areas), and 3) rattlesnake grass. This experiment also included litter removal and seed addition treatments designed to examine the independent and interactive effects of removing litter and adding the seed of *Piperia yadonii* to establish populations of the rare plant in exotic plant treatment areas, as well as areas of apparently suitable but unoccupied habitat. In 2007, additional litter removal and seed addition plots were added to the 10 experimental blocks located within suitable but unoccupied habitat, allowing examination of the effects of inter-annual variability in weather on *Piperia yadonii* establishment.

We propose the following steps to evaluate the effects of these experimental treatments to inform design of enhancement treatments, as well as management of Yadon's piperia habitat.

**3.1 Monitor Vegetative Plant Status:** In the spring, we will revisit each of the 176, 1 m<sup>2</sup> plots established in this experiment to measure the following:

- Number of vegetative *Piperia*: one leaf, two leaf, and total

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

**3.2 Monitor Reproductive Plant Status:** In summer, we will revisit the treatment plots that had vegetative *Piperia* in the spring to measure following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

~~3.3 Analysis and Reporting: We will examine treatment differences in the abundance and performance of *Piperia yadonii*. Analyses will be used to evaluate appropriate methods to control exotic plants within the Del Monte Forest while protecting and enhancing Yadon's *Piperia* populations~~

Task 4: Examine habitat factors influencing *P. yadonii* performance

  
(initials)

### Question

What habitat factors influence the interannual variability in *P. yadonii* individual and population performance?

### Background

The *Piperia yadonii* habitat characterization indicated that, within the Del Monte Forest, *Piperia yadonii* occurs within a range of habitat conditions, in terms of plant community composition, soil conditions, and vegetation structure (EcoSystems West Consulting Group 2006). However, it is not currently known whether habitat conditions influence individual plant or patch performance, and thus population persistence. Indeed, there is little basic information available about the demographic rates for *Piperia yadonii*. This information can increase understanding of the biology of Yadon's *Piperia* needed to inform habitat management and enhancement, as well as to evaluate their effectiveness.

- 4.1 Examine Vegetative Plants:** The 54 permanent *P. yadonii* sites established in the 14 DMF/PDP Areas west of Highway 1 as part of the *Piperia yadonii* Habitat Characterization will be revisited during spring to collect the following data:
- Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).
  - Status of the 5 target (marked) plants (aboveground vs. dormant, size if aboveground)
- 4.2 Monitor Reproductive Plant Status:** In summer, we will revisit the permanent plots to measure following:
- Number of *Piperia* that initiated production of an inflorescence
  - Number of *Piperia* that were browsed and/or diseased
  - Mean reproduction (capsule production) of 10 randomly chosen plants
  - Reproductive status of the five target plants (flowered? Browsed? Diseased? Number of fruits produced)

~~4.3 Data Analysis and Reporting: The 2009 data will be combined with that collected between 2005 and 2008 to evaluate habitat factors that influence interannual variability in vegetative plant abundance, size structure, plant size, flowering rates, and fecundity. Results of the study will be presented in a report emphasizing the implications of the trends observed for the design and implementation of successful transplantation and enhancement projects.~~

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 6: Coordinate Adaptive Management Team

As part of our work on this project, we will coordinate and participate in the Adaptive Management Team (AMT) that will review and guide implementation of these studies. This task will include preparing documents for review by the AMT, and participating in meetings with the AMT and its members to discuss the projects.

In order to reduce costs associated with more frequent meetings, we propose that the AMT meet three times:

- May 2009: Telephone conference call to discuss spring work
- September 2009: Telephone conference call to discuss summer work
- January 2010: In-person meeting to review results of the 2009 studies and discuss 2010 scope of work.

### Task 7: Project Management

We will prepare two progress reports, one at the end of the spring season and one at the end of the summer season. The progress reports will summarize the activities completed to date and identify any problems or changes to the project tasks.

### DELIVERABLES AND IMPLEMENTATION SCHEDULE

The following products will be prepared through this project.

1. Spring 2009 progress report
2. Spring AMT meeting summary
3. Summer 2009 progress report
4. Summer AMT meeting summary
5. Power point presentation containing preliminary results of 2009 studies
6. Report describing results of all of the 2009 Piperia Plan Studies

Table 1 provides a schedule for implementation of the tasks associated with monitoring the studies, and identifies when the project deliverables will be provided to the AMT for review.

# EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

2009 Piperia Plan Studies

Table 1: Schedule for 2009 Piperia Study tasks, with numbers indicating when deliverables will be provided. Details described in text.

Study	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan '10
2 Horticultural Techniques												
2.1 <u>Evaluate Tuber Storage</u>												
2.1.1 Monitor Vegetative Status												
2.1.2 Monitor Reproductive Status												
2.1.3 Data Analysis												
2.2 <u>Tuber Translocation</u>												
2.2.1 Monitor Vegetative Plant Status												
2.2.2 Monitor Reproductive Plant Status												
2.2.3 Data Analysis												
<del>2.3 Report of Results from Horticultural Investigation</del>												
3 Exotic Plant and Regeneration Niche Experiment												
3.1 Monitor Vegetative Plant Status												
3.2 Monitor Reproductive Plant Status												
<del>3.3 Analysis and Reporting</del>												
4 Habitat factors influencing <i>P. yucatanii</i> performance												
4.1 Monitor Vegetative Plant Status												
4.2 Monitor Reproductive Plant Status												
<del>4.3 Analysis and Reporting</del>												
6 Adaptive Management Team Meetings				2				4				6
7 Project Management				1				3				5

  
(Initials)

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### REFERENCES

EcoSystems West Consulting Group 2004. Draft Transplantation Design, Enhancement, and Adaptive Management Plan (TEAM) for Yadon's Piperia for the Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Report submitted to the County of Monterey Planning and Building Inspection Department. January 2004. 47 pages + appendices.

EcoSystems West Consulting Group 2006a. Habitat Characterization for Yadon's Piperia (*Piperia yadonii*) within the Forested Habitat of the Monterey Peninsula. Administrative draft submitted to Monterey County January 10, 2006.

EcoSystems West Consulting Group 2006b. Memo to the Adaptive Management Team describing the goals, objectives, and key definitions for the Final Piperia Plan. April 26, 2006.

EcoSystems West Consulting Group 2008. *Draft* Report of 2006-2007 Piperia Plan Studies. Administrative draft submitted to Monterey County. February 20, 2008.

Jones and Stokes. 2005. Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Final Environmental Impact Report. Volume I. Monterey County Planning and Building Inspection Department, Marina, CA. January 2005.

# EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Ecosystems West Consulting Group

Expense Type	Personnel	Task 2.1	Task 2.2	Task 2.3	Task 2.4	Task 3.1	Task 3.2	Task 3.3	Task 4.1	Task 4.2	Task 4.3	Task 6	Task 7	Total	Rates	Total Cost
Technical	Project Manager (Bill Davilla)	2	0	0	0	2	2	0	4	4	0	4	4	24	\$110.00	\$2,640.00
Support	Lead Technicians (Alicia/Ruck)	8	16	0	0	10	10	0	96	60	0	4	4	208	\$90.00	\$18,720.00
	Word Processing/Report Production/Graphs	10	18	0	0	12	12	0	100	64	0	8	8	232	\$50.00	\$11,600.00
	Total Cost Labor	\$940	\$1,660	\$0	\$0	\$1,120	\$1,120	\$0	\$9,080	\$5,840	\$0	\$800	\$800			\$21,360.00
ONC's	Mileage (total miles all trips)	300	400	0	0	200	200	0	800	600	0	0	0	2400	\$0.555	\$1,404.00
	Per Diem (includes lodging and meals)	0	2	0	0	2	0	0	8	6	0	0	0	18	\$120.00	\$2,160.00
	Field Equip/Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$25.00
	Photocopy/Graphs/Reproduction	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$50.00	\$0.00	\$50.00
	Total ODC's	\$117	\$174	\$0	\$0	\$337	\$117	\$0	\$1,453	\$1,071	\$0	\$50	\$0	\$3,639	\$0.00	\$3,639.00
	Total Cost by Subtask	\$1,057	\$2,134	\$0	\$0	\$1,477	\$1,237	\$0	\$10,533	\$6,911	\$0	\$950	\$800			\$34,999.00
	Grand Total				\$3,191			\$2,714		\$17,444		\$950	\$800			\$54,999.00

- Task 1: Inoculated Techniques for P. yadonii
- Subtask 2.1: Evaluate Tuber Storage
- Subtask 2.2: Tuber Translocation
- Subtask 2.3: Seed Storage (discussed within 2008 Scope of Work, no additional studies currently anticipated)
- Task 3: Fertilizer Report of Results of Fertilization Investigation
- Subtask 3.1: Monitor Vegetative Plant Status
- Subtask 3.2: Monitor Reproductive Plant Status
- Subtask 3.3: Analysis and Reporting
- Task 4: Habitat Factors Influencing P. yadonii Performance
- Subtask 4.1: Monitor Vegetative Plant Status
- Subtask 4.2: Monitor Reproductive Plant Status
- Subtask 4.3: Analysis and Reporting
- Task 6: Meetings: Attend Adaptive Management Team and Project Management Meetings (estimate 2 phone meetings x 2 people and 1 in-person meeting x 2 people plus 10 hours preflight)
- Task 7: Prepare and Contract Management/Progress Reports

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

**PAYMENT PROVISIONS**

Invoices for services performed under the AGREEMENT shall be submitted quarterly based upon a percentage of task completion and delivery of the final product and shall include the following:

**1. Invoice Coversheet**

*EcoSystems West Consulting Group  
2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest  
Preservation and Development Plan*

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

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

Agreement Term: *February 1, 2009 to April 30, 2010*

Agreement Amount \$ 24,999.00 (*\$24,999.00 base budget plus \$0.00 project contingency*)

Prior Invoices: \$ \_\_\_\_\_  
(Under this Agreement)

This Invoice: \$ \_\_\_\_\_

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

Approved as to Work/Payment: \_\_\_\_\_  
*Carl P. Holm, AICP  
Assistant Director of Planning*

\_\_\_\_\_  
Date

**All Invoices Are To Be Sent To:**

Jaime Martinez, Accounting Technician  
County of Monterey Resource Management Agency  
Planning Department  
168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA 93901  
Telephone: (831) 755-4829

**2. Invoice Detail**

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



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

County of Monterey  
Resource Management Agency  
Planning Department

Project Manager/Planner: Carl P. Holm, AICP  
 PLN: PLN010254  
 PSA Term: 02/01/09 - 04/30/10

CONSULTANT NAME: EcoSystems West Consulting Group  
 PROJECT NAME: 2009 Pineria Plan Studies  
 INVOICE NUMBER:  
 INVOICE DATE:

Task #	Task Description	Allocated # of Hours for Task Completion	Hours Used for Task Completion to Date	Remaining # of Hours Available for Task Completion	Allocated Amount for Completion	Invoice #1 - Dated	Invoice #2 - Dated	Invoice #3 - Dated	Invoice #4 - Dated	Invoice #5 - Dated	Invoice #6 - Dated	Invoice #7 - Dated	Invoice #8 - Dated	Invoice #9 - Dated	Invoice #10 - Dated	Percentage of Remaining Budget for Task Completion	Remaining Budget
2.1	Evaluate Tuber Storage	10.00		10.00	\$1,057.00											100%	\$1,057.00
2.2	Evaluate Success of Translocated <i>Piperia yadonii</i>	18.00		18.00	\$2,134.00											100%	\$2,134.00
2.3	Seed Storage	0.00		0.00	\$0.00											0%	\$0.00
2.4	Report Results of Horticultural Investigation	0.00		0.00	\$0.00											0%	\$0.00
3.1	Monitor Vegetative Plant Status	12.00		12.00	\$1,477.00											100%	\$1,477.00
3.2	Monitor Reproductive Plant Status	12.00		12.00	\$1,237.00											100%	\$1,237.00
3.3	Analysis and Reporting	0.00		0.00	\$0.00											0%	\$0.00
4.1	Examine Vegetative Plants	100.00		100.00	\$10,533.00											100%	\$10,533.00
4.2	Monitor Reproductive Plant Status	64.00		64.00	\$6,911.00											100%	\$6,911.00
4.3	Analysis and Reporting	0.00		0.00	\$0.00											0%	\$0.00
6.0	Coordinate Adaptive Management	8.00	0.00	8.00	\$850.00											100%	\$850.00
7.0	Project Management	8.00	0.00	8.00	\$800.00											100%	\$800.00
	<b>Grand Total</b>	<b>232.00</b>	<b>0.00</b>	<b>232.00</b>	<b>\$24,999.00</b>	<b>\$0.00</b>	<b>100%</b>	<b>\$24,999.00</b>									

Consultant: Please complete yellow highlighted sections utilizing appropriate invoice column. Pink highlighted section is utilized for project tracking only.  
 Page 10 of 10



COUNTY OF MONTEREY  
RESOURCE MANAGEMENT AGENCY  
PLANNING DEPARTMENT

MEMORANDUM

EXHIBIT B

DATE: March 2, 2009

TO: Steven F. Mauck  
Risk Manager

FROM: Mike Novo, AICP  
Director of Planning

SUBJECT: JUSTIFICATION TO PROFESSIONAL LIABILITY INSURANCE FOR THE PROFESSIONAL SERVICES AGREEMENT BETWEEN ECOSYSTEMS WEST CONSULTING GROUP AND THE COUNTY OF MONTEREY FOR THE 2009 PIPERIA PLAN STUDIES FOR THE PEBBLE BEACH'S COMPANY'S DEL MONTE FOREST PRESERVATION AND DEVELOPMENT PLAN

The Planning Department is entering into a Professional Services Agreement with EcoSystems West Consulting Group to provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan. As part of this Agreement, the Contractor has furnished proof of insurance as follows: 1) commercial general liability in the amount of \$1 million per occurrence - \$2 million aggregate, 2) workers' compensation insurance in the amount of \$1 million per occurrence, and 3) automobile insurance in the amount of \$1 million combined single limit. These amounts are in compliance with the County's minimum limits for liability. The Contractor also carries professional liability insurance in the amount of \$1 million per occurrence - \$1 million aggregate. The County normally requires professional liability in the amount of \$1 million per occurrence - \$2 million aggregate.

The Scope of Services to be performed by Mr. Davilla and his staff at EcoSystems West Consulting Group will have minimal liability to the County. All services must be conducted in accordance with standards and requirements specified by the California Department of Fish and Game, United States Fish and Wildlife Service and professional biological consulting standards and will be overseen and reviewed by the Planning Department's professional planning and environmental staff. The \$1,000,000 per claim/\$1,000,000 aggregate amount to be carried at all times during the term of this Agreement by EcoSystems West Consulting Group is deemed to be an amount that is more than sufficient to cover any potential liability in the services rendered on behalf of the County.

Your consideration of this exemption is greatly appreciated.

CPH/DMM/sd

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE  
03-04-2009

PRODUCER  
DEALEY RENTON & ASSOC INS BRKR/PHS  
101010 P: (866) 467-8730 F: (877) 905-0457  
PO BOX 33015  
SAN ANTONIO TX 78265

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

### INSURERS AFFORDING COVERAGE

INSURED  
ECO SYSTEMS WEST  
819 1/2 PACIFIC AVE. STEREO SOURCE MANAGEMENT AG  
SANTA CRUZ CA 95060  
PUBLIC WORKS - ADMIN

INSURER A: Hartford Casualty Ins Co  
INSURER B: Hartford Fire Ins Co  
INSURER C:  
INSURER D:  
INSURER E:

### COVERAGES

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

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	57 SBA NA8941	03/31/09	03/31/10	EACH OCCURRENCE	\$1,000,000
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$300,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$10,000
	<input checked="" type="checkbox"/> General Liab				PERSONAL & ADV INJURY	\$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$2,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG	\$2,000,000
A	AUTOMOBILE LIABILITY	57 SBA NA8941	03/31/09	03/31/10	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<input checked="" type="checkbox"/> NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
					AUTO ONLY: AGG	\$
	EXCESS LIABILITY				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	57 WEC CZ3891	03/31/09	03/31/10	<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	
	OTHER					

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

Monterey County Planning & Building Inspection Department is additional insured as respects the liability coverage provided under policy number 57 SBA NA 8941 for those usual to the Insured's Operations by Form SS 12 11, which is equivalent to the CG2010. Coverage is Primary and Non-Contributory.

CERTIFICATE HOLDER  ADDITIONAL INSURED; INSURER LETTER: A

### CANCELLATION

Monterey County Planning & Building  
Inspection Department Attn Ms  
Dalia M Mariscal Management Analyst II  
168 West Alisal Street 2nd Floor  
Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE (10 DAYS FOR NON-PAYMENT) TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE  
ATTACHMENT D  
PAGE 171 OF 261

*Taylor*

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
07/03/08

PRODUCER:  
 ARH Professional Practice  
 Insurance Brokers, Inc.  
 7030 Main Street, Suite 350  
 Irvine, CA 92614-7248

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

INSURED:  
 Ecosystems West Consulting Group  
 819 1/2 Pacific Ave, #4  
 Santa Cruz, CA 95060

INSURERS AFFORDING COVERAGE:  
 INSURER A: Lloyds of London  
 INSURER B:  
 INSURER C:  
 INSURER D:  
 INSURER E:

### COVERAGES

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

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	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 \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS -COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				IWC STATUTORY LIMITS   OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	OTHER Professional Liability	W15JJD08PNPA	06/30/08	06/30/09	\$1,000,000 Per Claim \$1,000,000 Aggregate

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

CERTIFICATE HOLDER | ADDITIONAL INSURED; INSURER LETTER: \_\_\_\_\_ CANCELLATION Ten Day Notice for Non-Payment of Premium

COUNTY OF MONTEREY  
 PLANNING BUILDING INSPECTION DEPT.  
 ATTN: JEAN GETCHELL  
 2620 1ST AVE.  
 MARINA, CA 93933

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL endeavor TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.

AUTHORIZED REPRESENTATIVE

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**BUSINESS LIABILITY COVERAGE FORM**

**QUICK REFERENCE  
BUSINESS LIABILITY COVERAGE FORM  
READ YOUR POLICY CAREFULLY**

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# BUSINESS LIABILITY 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 stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section C. - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section G. - Liability And Medical Expenses Definitions.

## A. COVERAGES

### 1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

#### Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section D. - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

#### b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph 1. of Section C. - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section C. - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

## BUSINESS LIABILITY COVERAGE FORM

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

### e. Incidental Medical Malpractice

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

(a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

(b) You are not engaged in the business or occupation of providing such services.

(2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. MEDICAL EXPENSES

### Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by ATTACHMENT D physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

## 3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

- (1) All expenses we incur.
- (2) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
- (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- (5) All costs taxed against the insured in the "suit".
- (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (2) This insurance applies to such liability assumed by the insured;
- (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;
- (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (6) The indemnitee:
  - (a) Agrees in writing to:
    - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
    - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (b) Provides us with written authorization to:
    - (i) Obtain records and other information related to the "suit"; and
    - (ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph 1.b.(b) of Section B. — Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

~~Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:~~

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (6) above, are no longer met.

## B. EXCLUSIONS

### 1. Applicable To Business Liability Coverage

This insurance does not apply to:

#### a. Expected Or Intended Injury

- (1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or
- (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

#### b. Contractual Liability

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

**BUSINESS LIABILITY COVERAGE FORM**

(b) "Bodily injury" or "property damage" 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. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and
- (ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**d. Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business, or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) 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.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

**f. Pollution**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

BUSINESS LIABILITY COVERAGE FORM

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible;

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or

released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

- (2) Any loss, cost or expense arising out of any:

- (a) 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

- (b) 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".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

**BUSINESS LIABILITY COVERAGE FORM**

**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

**h. Mobile Equipment**

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

**i. War**

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (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.

**j. Professional Services**

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

BUSINESS LIABILITY COVERAGE FORM

(8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;

(9) Any:

(a) Body piercing (not including ear piercing);

(b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and

(c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.e. in Section A. - Coverages.

k. Damage To Property

"Property damage" to:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section D. - Limits Of Insurance.

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

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

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

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

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

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**BUSINESS LIABILITY COVERAGE FORM**

**p. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**p. Personal And Advertising Injury**

"Personal and advertising injury":

- (1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of a criminal act committed by or at the direction of the insured;
- (4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";
- (5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (6) Arising out of the wrong description of the price of goods, products or services;
- (7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

- (a) Copyright;
- (b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

- (c) Title of any literary or artistic work;
- (8) Arising out of an offense committed by an insured whose business is:

- (a) Advertising, broadcasting, publishing or telecasting;
- (b) Designing or determining content of web sites for others; or
- (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a., b. and c. under the definition of "personal and advertising injury" in Section G. — Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;
- (10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;
- (11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

- (12) Arising out of:
  - (a) An "advertisement" for others on your web site;
  - (b) Placing a link to a web site of others on your web site;
  - (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
  - (d) Computer code, software or programming used to enable:
    - (i) Your web site; or
    - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

**BUSINESS LIABILITY COVERAGE FORM**

- (13) Arising out of a violation of any anti-trust law;
- (14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or
- (15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

**g. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

**r. Employment-Related Practices**

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

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.

**s. Asbestos**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

- (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information**

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

**Damage To Premises Rented To You - Exception For Damage By Fire, Lightning or Explosion**

Exclusions c. through h. and k. through o. do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section D. - Liability And Medical Expenses Limits Of Insurance.

## BUSINESS LIABILITY COVERAGE FORM

### 2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

- a. Any Insured  
To any insured, except "volunteer workers".
- b. Hired Person  
To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. Injury On Normally Occupied Premises  
To a person injured on that part of premises you own or rent that the person normally occupies.
- d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

- e. Athletics Activities  
To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. Products-Completed Operations Hazard  
Included with the "products-completed operations hazard".
- g. Business Liability Exclusions  
Excluded under Business Liability Coverage.

### C. WHO IS AN INSURED

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

#### a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

**BUSINESS LIABILITY COVERAGE FORM**

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**b. Real Estate Manager**

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

**4. Operator Of Mobile Equipment**

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

**c. Temporary Custodians Of Your Property**

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**d. Legal Representative If You Die**

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

**5. Operator of Nonowned Watercraft**

**e. Unnamed Subsidiary**

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

With respect to watercraft you do not own that is less than 5'1 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**3. Newly Acquired Or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

**6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, and

The person(s) or organization(s) identified in paragraphs a. through f. below are additional insureds when you have agreed, in a written

## BUSINESS LIABILITY COVERAGE FORM

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. - Optional Additional Insured Coverages.

### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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

### b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**c. Lessors Of Land Or Premises**

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

- (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
- (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (a) In connection with your premises; or
- (b) In the performance of your ongoing operations performed by you or on your behalf.

- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering

**e. Permits Issued By State Or Political Subdivisions**

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (a) In the performance of your ongoing operations;
- (b) In connection with your premises owned by or rented to you; or

- (c) In connection with "your work" and included within the "products-completed operations hazard", but only if

- (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

- (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

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- (a) The preparing, approving, or failure to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section D, - Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. - Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

#### 1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

#### 2. Aggregate Limits

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

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

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

#### 3. Each Occurrence Limit

Subject to 2.a. or 2.b. above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

#### 4. Personal And Advertising Injury Limit

Subject to 2.b. above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

#### 5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

#### 6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

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If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

#### 1. Bankruptcy

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

#### 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

##### a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

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

##### b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

##### c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses, or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

##### d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

##### f. Knowledge Of An Occurrence, Offense, Claim Or Suit

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

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

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This Paragraph f. applies separately to you and any additional insured.

### 3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

### 4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

### 7. Other Insurance

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

#### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

##### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

##### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

##### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

##### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. - Coverages.

##### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. - Coverages.

## BUSINESS LIABILITY COVERAGE FORM

### (6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

### (7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

#### (a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### (b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

#### c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

#### 8. Transfer Of Rights Of Recovery Against Others To Us

##### a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

##### b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

**BUSINESS LIABILITY COVERAGE FORM**

**F. OPTIONAL ADDITIONAL INSURED COVERAGES**

If listed or shown as applicable in the Declarations one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

**1. Additional Insured - Designated Person Or Organization**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with your premises owned by or rented to you.

**2. Additional Insured - Managers Or Lessors Of Premises**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

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

This insurance does not apply to:

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

**3. Additional Insured - Grantor Of Franchise**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

**4. Additional Insured - Lessor Of Leased Equipment**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

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

This insurance does not apply to:

- (1) Any "occurrence" that takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**6. Additional Insured - State Or Political Subdivision - Permits**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

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

This insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

**7. Additional Insured – Vendors**

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- b. The insurance afforded to the vendor is subject to the following additional exclusions:

- (1) This insurance does not apply to:
  - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - (b) Any express warranty unauthorized by you;
  - (c) Any physical or chemical change in the product made intentionally by the vendor;
  - (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or
- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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

**8. Additional Insured – Controlling Interest**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

- a. Their financial control of you; or
- b. Premises they own, maintain or control while you lease or occupy these premises.

## BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

### 9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations for the additional insured(s); or

(2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

### 10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

## G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

## BUSINESS LIABILITY COVERAGE FORM

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above;
- c. All other parts of the world if the injury or damage arises out of:
  - (1) Goods or products made or sold by you in the territory described in a. above;
  - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
  - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

7. "Electronic data" means information, facts or programs:
  - a. Stored as or on;
  - b. Created or used on; or
  - c. Transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of "your product" or "your work" or
- b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. - Liability and Medical Expenses Limits of Insurance.
- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; or
- f. 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 party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement 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.

However, Paragraph f. does not include that part of any contract or agreement:

## BUSINESS LIABILITY COVERAGE FORM

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "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".

14. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

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

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, on which are permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in a., b., c., or d. 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":

(1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

## BUSINESS LIABILITY COVERAGE FORM

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
- h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "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.

19. "Products-completed operations hazard";

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) 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.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

- b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.

As used in this definition, "electronic data" is not tangible property.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages 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 are claimed and to which the insured submits with our consent.

22. "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.

23. "Volunteer worker" means a person who:

- a. Is not your "employee";

**BUSINESS LIABILITY COVERAGE FORM**

- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

**24. "Your product"**

**a. Means:**

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (a) You;
- (b) Others trading under your name;

or

- (c) A person or organization whose business or assets you have acquired; and

- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

**b. Includes:**

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

- (2) The providing of or failure to provide warnings or instructions.

- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

**25. "Your work"**

**a. Means:**

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

**b. Includes:**

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2) The providing of or failure to provide warnings or instructions.

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

**Agreement No: A-11684, A-11411**

- a. Approve Amendment No. 1 to Professional Services Agreement with EcoSystems West Consulting Group where the Base Budget is increased by \$24,965 for a total amount not to exceed \$49,964 to include 2010 Piperia Plan Studies to the 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2011;
  - b. Approve Amendment No. 1 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget is increased by \$24,965 to \$49,964 with no increase to the Surcharge Budget amount of \$2,500 for a total amount not to exceed \$52,464 to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to include 2010 Piperia Plan Studies to the 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2011;
  - c. Authorize the Contracts/Purchasing Officer to execute Amendment No. 1 to the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount; and
  - d. Authorize the Director of Planning to execute Amendment No. 1 to Reimbursement Agreement No. A-11411 and future amendments to this Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount.
- (Contract - PD060822/EcoSystems West Consulting Group)

Upon motion of Supervisor Calcagno, seconded by Supervisor Parker, and carried by those members present, the Board hereby:

- a. Approved Amendment No. 1 to Professional Services Agreement (**A-11684**) with EcoSystems West Consulting Group where the Base Budget is increased by \$24,965 for a total amount not to exceed \$49,964 to include 2010 Piperia Plan Studies to the 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2011;
- b. Approved Amendment No. 1 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget is increased by \$24,965 to \$49,964 with no increase to the Surcharge Budget amount of \$2,500 for a total amount not to exceed \$52,464 to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to include 2010 Piperia Plan Studies to the 2009

Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254) in Pebble Beach, for a term through April 30, 2011;

- c. Authorized the Contracts/Purchasing Officer to execute Amendment No. 1 to the Professional Services Agreement (A-11684) and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount; and
- d. Authorized the Director of Planning to execute Amendment No. 1 to Reimbursement Agreement No. A-11411 and future amendments to this Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount.

PASSED AND ADOPTED this 27<sup>th</sup> day of April, 2010, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker

NOES: None

ABSENT: Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on April 27, 2010.

Dated: April 27, 2010

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

By *Fabrizio R. Quiroz*  
Deputy

**Amendment No. 1 to  
Reimbursement Agreement with  
The Pebble Beach Company  
for  
2009 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan**

This Amendment No. 1 to Reimbursement Agreement, (hereinafter, "Amendment No. 1"), is made and entered, by and between the County of Monterey, a political subdivision of the State of California (hereinafter, "COUNTY"), and The Pebble Beach Company (hereinafter, "PROJECT APPLICANT").

Whereas, The Pebble Beach Company entered into a Reimbursement Agreement with COUNTY on May 6, 2009 (hereinafter, "AGREEMENT"),

Whereas, the parties desire to amend the AGREEMENT to provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan to include 2010 Piperia Plan Studies and extend the term of the AGREEMENT through April 30, 2011 as required by the plan for management, protection and restoration of Yadon's Piperia,

Therefore, this Amendment No. 1 amends the AGREEMENT as follows:

1. Amend first sentence of Section 3, "Engagement of CONTRACTOR.", to read as follows:

County shall engage CONTRACTOR in accordance with the contract between COUNTY and CONTRACTOR attached hereto and incorporated by this reference as Exhibits 1 and 1A.

2. Amend Section 4, "Reimbursement.", to read as follows:

4. Reimbursement.

- a. CONTRACTOR'S Invoices.

PROJECT APPLICANT shall reimburse COUNTY the full cost of employing CONTRACTOR in accordance with the terms of Exhibits "1" and "1A" of this AGREEMENT.

Maximum Reimbursement Under AGREEMENT.

The maximum which may be charged to PROJECT APPLICANT under this AGREEMENT shall be increased by \$24,965.00, for a total amount not to exceed the sum of \$52,464.00.

CONTRACTOR'S Budget:	\$ 49,964.00
COUNTY Surcharge:	\$ 2,500.00
<u>Maximum to be Reimbursed Under AGREEMENT:</u>	<u>\$ 52,464.00</u>

3. Amend Section 7, "Term.", to read as follows:

AGREEMENT shall become effective February 1, 2009 and continue through April 30, 2011, unless terminated pursuant to Paragraph 8 of AGREEMENT.

4. Amend first sentence of Section 8, "Termination.", to read as follows:

AGREEMENT shall terminate on April 30, 2011, but may be terminated earlier by PROJECT APPLICANT or COUNTY, by giving fourteen (14) days written notice to the other.

5. Subject to the foregoing, all other terms and conditions of AGREEMENT shall remain in full force and effect.

6. If there is any conflict or inconsistency between the provisions of AGREEMENT or Amendment No. 1, the provisions of Amendment No. 1 shall govern.

IN WITNESS WHEREOF, the parties hereby execute this Amendment No. 1 as follows:

THE COUNTY OF MONTEREY

By: *ML*  
Director of Planning

Date: 4/28/10

PROJECT APPLICANT

By: *Mark Stowell*  
(Signature of Chair, President or Vice President)

Its: *Executive Vice President*  
(Name and Title)

Date: 4/14/2010

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

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

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

Approved as to Form, County Counsel

By: *Cynthia L. Hesson*  
Deputy County Counsel

Date: 4-15-10

# **EXHIBIT 1A**

**AMENDMENT NO. 1 TO THE  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
ECOSYSTEMS WEST CONSULTING GROUP  
AND THE COUNTY OF MONTEREY  
FOR  
2009 PIPERIA PLAN STUDIES  
FOR  
THE PEBBLE BEACH COMPANY'S  
DEL MONTE FOREST PRESERVATION AND  
DEVELOPMENT PLAN**

Page 4 of 4

Amendment No. 1 to Reimbursement Agreement  
The Pebble Beach Company  
2009 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning Department  
Term: February 1, 2009 – April 30, 2011  
Not to Exceed: \$52,464.00

**Amendment No. 1 to  
Professional Services Agreement with  
EcoSystems West Consulting Group  
for  
2009 Piperia Plan Studies  
For  
The Pebble Beach Company's Del Monte Forest Preservation and Development Plan**

This Amendment No. 1 to the Professional Services Agreement, (hereinafter, "Amendment No. 1"), is made and entered, by and between the County of Monterey, a political subdivision of the State of California (hereinafter, "COUNTY"), and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR").

Whereas, EcoSystems West Consulting Group entered into a Professional Services Agreement with COUNTY on May 7, 2009 (hereinafter, "AGREEMENT"),

Whereas, the parties desire to amend the AGREEMENT to provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan to include 2010 Piperia Plan Studies, extend the term of the AGREEMENT through April 30, 2011 as required by the plan for management, protection and restoration of Yador's Piperia, and delete the justification for Professional Liability insurance modification/exemption as previously agreed,

Therefore, this Amendment No. 1 amends the Agreement as follows:

1. Amend Section 1, "**SERVICES TO BE PROVIDED.**", to read as follows:

The COUNTY hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibits A and A-1 in conformity with the terms of this Agreement. The services are generally described as follows: Provide 2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan. The 2010 Piperia Plan Studies to be included in this AGREEMENT are described in Exhibit A-1.

2. Amend Section 2, "**PAYMENTS BY COUNTY.**", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A and A-1, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall be increased by \$24,965.00, for a total amount not to exceed the sum of \$49,964.00.

Page 1 of 3

Amendment No. 1 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - April 30, 2011  
Not to Exceed: \$49,964.00

3. Amend first sentence in Section 3, "**TERM OF AGREEMENT.**", to read as follows:

The term of this Agreement is from February 1, 2009 to April 30, 2011, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Section 4, "**ADDITIONAL PROVISIONS/EXHIBITS.**", by adding "Exhibit A-1, Scope of Services/Payment Provisions" and deleting Exhibit B, Justification to Professional Liability Insurance.

5. Amend Section 9.03, "Insurance Coverage Requirements:" "Professional liability insurance," to read as follows:

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

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

6. Subject to the foregoing, all other terms and conditions of AGREEMENT shall remain in full force and effect.
7. If there is any conflict or inconsistency between the provisions of AGREEMENT and Amendment No. 1, the provisions of Amendment No. 1 shall govern.

Page 2 of 3

Amendment No. 1 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - April 30, 2011  
Not to Exceed: \$49,964.00

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Professional Services Agreement as of the day and year written below:

COUNTY OF MONTEREY

CONTRACTOR\*

By: [Signature]  
Contracts/Purchasing Officer

EcoSystems West Consulting Group  
Contractor's Business Name

Date: 4-30-10

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

Its: William Darrell Owen  
(Name and Title)

Date: 4-13-2010

Approved as to Form

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

By: [Signature]  
Deputy County Counsel

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

Date: 4-14-10

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

Approved as to Fiscal Provisions

By: [Signature]  
Auditor/Controller

Date: 4-14-10

Approved as to Indemnity, Insurance Provisions

By: [Signature]  
Risk Management

Date: 4/14/10

\*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.

ENTERED  
APR 30 2010

KA

## EXHIBIT A-1 -- SCOPE OF SERVICES/PAYMENT PROVISIONS

TITLE: 2010 Piperia Studies

DURATION: February 2010-January 2011

### SCOPE

In this project, we will continue to monitor research plots established between 2005 and 2007 to inform habitat management, enhancement, and transplantation projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest. The studies were identified by the project Adaptive Management Team (AMT) as priorities for research as part of Phase 1a testing of the Final Piperia Plan, which was being developed to mitigate impacts of the Del Monte Forest Preservation and Development Plan (DMF/PDP). Though changes to the proposed development may render unnecessary the Final Piperia Plan, at least as previously outlined, the research program has been recognized by the AMT as invaluable for informing management of protected habitat within the Del Monte Forest in order to conserve Yadon's piperia. Moreover, results of the research can be used to design successful enhancement projects to mitigate the impacts of other future development within the region.

This scope of work describes monitoring of previously established research studies for the 12 month period beginning in February 2010.

### INTRODUCTION

The ongoing research in this project is designed to answer the following main questions:

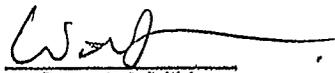
1. What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?
2. What factors might influence establishment of *Piperia yadonii* from seed and success of *P. yadonii* establishment following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?
3. What habitat factors influence *P. yadonii* individual and population performance?

These questions were identified by the AMT as being most important to inform enhancement, management, and/or transplantation of Yadon's piperia. For each question, we provide background information about the relevance to conservation and management, and describe study methods for 2010. The reader is referred to the Report of the 2006-2007 Piperia Plan Studies (EcoSystems West Consulting Group 2008) for more detail about the studies for which ongoing monitoring is recommended in 2010.

### TASKS

Because modifications to the proposed development project may render mass salvage and translocation of Yadon's piperia tubers unnecessary, this scope of work *does not* include additional effort to design a salvage and transplantation process, as were included as part of Task 1 in prior scopes of work and reports. Task 1 is skipped below and instead this scope of work begins with Task 2, to maintain continuity in task numbering with prior reports and proposals.

In addition, Task 5, the deer herbivory experiment, has been indefinitely suspended at the request of Pebble Beach Corporation.

  
Contractor's Initials

## EXHIBIT A-1 -- SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 2: Investigate Horticultural Techniques for *P. yadonii*

#### : Question

What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?

#### Background

In 2006, we established a series of trials to examine techniques to successfully translocate and store *P. yadonii* tubers obtained from the development area at MNOUV, as well as store seed used in experiments evaluating factors influencing seedling establishment in the other areas (EcoSystems West Consulting Group 2007). Ongoing monitoring of these trials can increase understanding of the ecology of Yadon's piperia, and be used to design habitat management and enhancement efforts. The following ongoing tasks are recommended to obtain answers to the original questions posed.

#### Task 2.1: Evaluate Tuber Storage

In fall 2006, we established a study comparing the efficacy of storing tubers in flats with soil in a lath house, a greenhouse, and within the Monterey Pine Forest. In fall 2007, the tubers were excavated and examined, then re-potted into larger containers that allow monitoring of individual demographic performance. The following tasks will increase understanding of Yadon's piperia tuber biology through evaluation of their performance *ex situ*.

- 2.1.1 Monitor Vegetative Status: In spring, we will examine whether each tuber produced a vegetation plant, and if so, measure the number of leaves and longest leaf length.
- 2.1.2 Monitor Reproductive Status: In summer, we will determine the proportion of vegetation plants that reproduced, were diseased, and/or browsed.
- 2.1.3 Data Analysis: This subtask will not be conducted during this project year to reduce overall costs. All data gathered during the field efforts will be appropriately archived for analysis at a latter date.

#### Task 2.2: Evaluate Success of Translocated *Piperia yadonii*

In fall 2006, a tree spade was used to translocate five soil cores containing *P. yadonii* from three donor sites to three receiver sites within MNOUV. In spring 2007, five, unmoved control plots were established to facilitate examination of the effects of translocation. In addition to informing success of tuber salvage and translocation, this study can increase understanding of Yadon's piperia biology needed to inform conservation, by for example, helping understand what constitutes appropriate habitat for the endangered orchid, as tubers were translocated into apparently suitable but unoccupied habitat. The following steps are proposed to evaluate success of the transplantation treatment.

- 2.2.1 Monitor Vegetative Plant Status: In the spring, we will measure the following in each of the five translocation cores and 5 control plots:
  - Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

## EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

2.2.2 **Monitor Reproductive Plant Status:** In summer, we will measure the following within each of the 5 translocation cores and 5 control plots:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

2.2.3 **Data Analysis:** This subtask will not be conducted during this project year to reduce overall costs. All data gathered during the field efforts will be appropriately archived for analysis at a latter date.

### Task 2.3-Report of Results from Horticultural Investigation

No annual report will be generated during this project year to reduce overall costs.

### Task 3: Experimental evaluation of *Piperia yadonii* regeneration niche and establishment following exotic plant removal

#### Question

What factors might influence establishment of *Piperia yadonii* from seed following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?

#### Background

In spring 2006, we established a small-scale manipulative experiment to evaluate the independent and interactive effects of factors hypothesized to influence seedling establishment following removal of three types of exotic plants most commonly observed in or adjacent to habitat occupied by *Piperia yadonii*: 1) French broom, 2) *Acacia* species (there are more than one in the DMF/PDP Areas), and 3) rattlesnake grass. This experiment also included litter removal and seed addition treatments designed to examine the independent and interactive effects of removing litter and adding the seed of *Piperia yadonii* to establish populations of the rare plant in exotic plant treatment areas, as well as areas of apparently suitable but unoccupied habitat. In 2007, additional litter removal and seed addition plots were added to the 10 experimental blocks located within suitable but unoccupied habitat, allowing examination of the effects of inter-annual variability in weather on *Piperia yadonii* establishment.

We propose the following steps to evaluate the effects of these experimental treatments to inform design of enhancement treatments, as well as management of Yadon's piperia habitat.

3.1 **Monitor Vegetative Plant Status:** In the spring, we will revisit each of the 176, 1 m<sup>2</sup> plots established in this experiment to measure the following:

- Number of vegetative *Piperia*: one leaf, two leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

3.2 **Monitor Reproductive Plant Status:** In summer, we will revisit the treatment plots that had vegetative *Piperia* in the spring to measure following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

## EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- 3.3 Analysis and Reporting: This subtask will not be conducted during this project year to reduce overall costs. All data gathered during the field efforts will be appropriately archived for analysis at a latter date.

### Task 4: Examine habitat factors influencing *P. yadonii* performance

#### Question

What habitat factors influence the interannual variability in *P. yadonii* individual and population performance?

#### Background

The *Piperia yadonii* habitat characterization indicated that, within the Del Monte Forest, *Piperia yadonii* occurs within a range of habitat conditions, in terms of plant community composition, soil conditions, and vegetation structure (EcoSystems West Consulting Group 2006). However, it is not currently known whether habitat conditions influence individual plant or patch performance, and thus population persistence. Indeed, there is little basic information available about the demographic rates for *Piperia yadonii*. This information can increase understanding of the biology of Yadon's piperia needed to inform habitat management and enhancement, as well as to evaluate their effectiveness.

- 4.1 Examine Vegetative Plants: The 54 permanent *P. yadonii* sites established in the 14 DMF/EDP Areas west of Highway 1 as part of the *Piperia yadonii* Habitat Characterization will be revisited during spring to collect the following data:
- Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).
  - Status of the 5 target (marked) plants (aboveground vs. dormant, size if aboveground)
- 4.2 Monitor Reproductive Plant Status: In summer, we will revisit the permanent plots to measure following:
- Number of *Piperia* that initiated production of an inflorescence
  - Number of *Piperia* that were browsed and/or diseased
  - Mean reproduction (capsule production) of 10 randomly chosen plants
  - Reproductive status of the five target plants (flowered? Browsed? Diseased? Number of fruits produced)
- 4.3 Data Analysis and Reporting: This subtask will not be conducted during this project year to reduce overall costs. All data gathered during the field efforts will be appropriately archived for analysis at a latter date.

### Task 6: Coordinate Adaptive Management Team

As part of our work on this project, we will coordinate and participate in the Adaptive Management Team (AMT) that will review and guide implementation of these studies. In order to reduce costs associated with more frequent meetings, we propose that the AMT meet two times via short one hour teleconferences:

- May 2010: Telephone conference call to discuss spring work
- September 2010: Telephone conference call to discuss summer work

## EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 7: Project Management

Project management will consist of short phone updates with County of Monterey project staff and Pebble Beach Company project staff. No formal progress reports will be prepared as a cost-savings measure.

Table 1 provides a schedule for implementation of the tasks associated with monitoring the studies.

**EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS**

**Table 1: Schedule for 2010 Piperia Study tasks.**

Study	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
2 Horticultural Techniques											
2.1 Evaluates Tuber Storage											
2.1.1 Monitor Vegetative Status											
2.1.2 Monitor Reproductive Status											
2.2 Tuber Translocation											
2.2.1 Monitor Vegetative Plant Status											
2.2.2 Monitor Reproductive Plant Status											
3 Exotic Plant and Regeneration Niche Experiment											
3.1 Monitor Vegetative Plant Status											
3.2 Monitor Reproductive Plant Status											
4 Habitat factors influencing <i>P. yadorii</i> performance											
4.1 Monitor Vegetative Plant Status											
4.2 Monitor Reproductive Plant Status											
6 Adaptive Management Team Meetings											

## EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

### REFERENCES

- EcoSystems West Consulting Group 2004. Draft Transplantation Design, Enhancement, and Adaptive Management Plan (TEAM) for Yadon's Piperia for the Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Report submitted to the County of Monterey Planning and Building Inspection Department. January 2004. 47 pages + appendices.
- EcoSystems West Consulting Group 2006a. Habitat Characterization for Yadon's Piperia (*Piperia yadonii*) within the Forested Habitat of the Monterey Peninsula. Administrative draft submitted to Monterey County January 10, 2006.
- EcoSystems West Consulting Group 2006b. Memo to the Adaptive Management Team describing the goals, objectives, and key definitions for the Final Piperia Plan, April 26, 2006.
- EcoSystems West Consulting Group 2008. *Draft* Report of 2006-2007 Piperia Plan Studies. Administrative draft submitted to Monterey County. February 20, 2008.
- Jones and Stokes. 2005. Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Final Environmental Impact Report. Volume I. Monterey County Planning and Building Inspection Department, Marina, CA. January 2005.

**EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

EcoSystems West Consulting Group

Expense Type	Stack 2.1	Stack 2.2	Subtask 2.3	Subtask 2.4	Subtask 3.1	Subtask 3.2	Subtask 3.3	Subtask 4.1	Subtask 4.2	Subtask 4.3	Task 6	Task 7	Total	Rebate	Total Cost
Technical	2	2	0	0	2	2	0	4	4	0	4	4	24	\$110.00	\$7,640.00
Lead Botanists (R&G/Gen/Buss)	8	16	0	0	16	16	0	56	60	0	4	4	208	\$90.00	\$18,720.00
Support	10	18	0	0	17	17	0	100	64	0	8	8	72	\$30.00	\$21,600.00
Total Hours	\$940	\$1,680	\$0	\$0	\$1,170	\$1,170	\$0	\$2,880	\$2,880	\$0	\$360	\$360	\$3,600		\$21,360.00
DDCs	200	400	0	0	300	300	0	800	600	0	0	0	2700	\$0.500	\$1,250.00
Per Diem (includes lodging and meals)	0	3	0	0	2	0	0	8	6	0	0	0	19	\$100.00	\$2,280.00
Fuel/Eng/Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00		\$25.00
Planters/Containers/Reproduction	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00
Total DDC's	\$100	\$560	\$0	\$0	\$390	\$390	\$0	\$1,383	\$1,820	\$0	\$0	\$0	\$3,000		\$5,000.00
Total Costs by Subtask	\$1,040	\$2,240	\$0	\$0	\$1,510	\$1,510	\$0	\$10,465	\$6,880	\$0	\$360	\$360	\$17,000		\$18,685.00
Grand Total															\$18,685.00
Task 2: Horticultural Techniques for P. yadonii															\$17,225
Subtask 2.1: Enclosed Tube Storage															\$800
Subtask 2.2: Enter Translucent															\$800
Subtask 2.3: Seed Storage (extended within 2008 Scope of Work; no additional studies currently anticipated)															\$800
Subtask 2.4: Report of Results of Horticultural Investigation															\$800
Task 3: Endic Plant and Regeneration Niche Experiment															\$800
Subtask 3.1: Monitor Vegetative Plant Status															\$800
Subtask 3.2: Monitor Reproductive Plant Status															\$800
Subtask 3.3: Analysis and Reporting															\$800
Task 4: Habitat Enclosed/Infrared P. yadonii Performance															\$800
Subtask 4.1: Monitor Vegetative Plant Status															\$800
Subtask 4.2: Monitor Reproductive Plant Status															\$800
Subtask 4.3: Analysis and Reporting															\$800
Task 6: Meetings: Attend Adaptive Management Team and Project Management Meetings (estimate 2 phone meetings x 2 people and 1 in-person meeting x 2 people plus 10 hours prep time)															\$800
Task 7: Project and Contract Management/Progress Reports															\$800

**EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS**

**PAYMENT PROVISIONS**

Invoices for services performed under the AGREEMENT shall be submitted quarterly based upon a percentage of task completion and delivery of the final product and shall include the following:

**1. Invoice Coversheet**

*EcoSystems West Consulting Group  
2009 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest  
Preservation and Development Plan*

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

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

Original Agreement Term: February 1, 2009 to April 30, 2010

Original Agreement Amount: \$ 24,999.00 (\$24,999.00 base budget plus \$0.00 project contingency)

Amendment No. 1: \$ 24,965.00 (\$24,965.00 base budget plus \$0.00 project contingency)  
Extension of Term to April 30, 2011

Total Agreement Amount: \$ 49,964.00 (\$49,964.00 base budget plus \$0.00 project contingency)

Prior Invoices: \$ \_\_\_\_\_  
(Under this Agreement)

This Invoice: \$ \_\_\_\_\_

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

Approved as to Work/Payment: \_\_\_\_\_  
Carl P. Holm, AICP  
Assistant Director of Planning

\_\_\_\_\_  
Date

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

**2. Invoice Detail**

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

**AMENDMENT NO. 2  
TO REIMBURSEMENT AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
THE PEBBLE BEACH COMPANY**

**THIS AMENDMENT NO. 2** to the Reimbursement Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and The Pebble Beach Company (hereinafter, "PROJECT APPLICANT") is hereby entered into between the County and the PROJECT APPLICANT.

**WHEREAS**, PROJECT APPLICANT entered into a Reimbursement Agreement with County on May 6, 2009 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the parties on April 28, 2010 (hereinafter, "Amendment No. 1"); and

**WHEREAS**, Agreement is due to expire on April 30, 2011; and

**WHEREAS**, additional time is necessary to obtain County of Monterey Board of Supervisors' approval to include 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review required for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan as required by the plan for management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the County and the PROJECT APPLICANT wish to further amend the Agreement to extend the term to June 30, 2012 to continue to provide tasks associated with the completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan.

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

1. Amend Paragraph 7, "Term", to read as follows:

AGREEMENT shall become effective February 1, 2009 and continue through June 30, 2012, unless terminated pursuant to Paragraph 8 of AGREEMENT.

2. Amend the first sentence of Paragraph 8, "Termination", to read as follows:

AGREEMENT shall terminate on June 30, 2012, but may be terminated earlier by PROJECT APPLICANT or COUNTY, by giving fourteen (14) days written notice to the other.

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

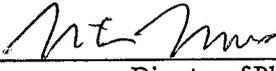
Page 1 of 2

Amendment No. 2 to Reimbursement Agreement  
The Pebble Beach Company  
2009-2010 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$52,464.00

4. This Amendment No. 2 shall be attached to Agreement and incorporated therein as if fully set forth in the Agreement.

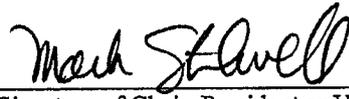
IN WITNESS WHEREOF, the parties hereby execute this Amendment No. 2 as follows:

THE COUNTY OF MONTEREY

By:   
Director of Planning

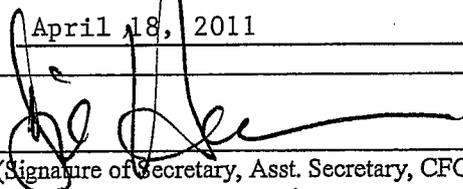
Date: 4/25/11

PROJECT APPLICANT\*

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

Its: Executive Vice President, General Counsel  
(Print Name and Title)

Date: April 18, 2011

By:   
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)  
David Heuck

Its: Executive Vice President, Chief Financial Officer  
(Print Name and Title)

Date: April 18, 2011

Approved as to Form and Legality  
Office of the County Counsel

By:   
Deputy County Counsel **Cynthia L. Hasson**

Date: 4-20-11

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

Agreement No.: A-11684; A-11411;

- a. Approve Amendment No. 3 to Professional Services Agreement No. A-11684 with EcoSystems West Consulting Group where the Base Budget of \$49,964 is increased by \$64,165, for a total amount not to exceed \$114,129 to include 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, for a term through June 30, 2012;
- b. Approve Amendment No. 3 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget of \$49,964 is increased by \$64,165 to \$114,129 with no change to the County Surcharge of \$2,500, for a total amount not to exceed \$116,629 to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to include 2011 Piperia Plan Studies and CEQA review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, for a term through June 30, 2012; and
- c. Authorize the Director of Planning to execute Amendment No. 3 to Professional Services Agreement No. A-11684, Amendment No. 3 to Reimbursement Agreement No. A-11411 and future amendments to these Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts. (PD060822/EcoSystems West Consulting Group)

Motion by Supervisor Salinas, seconded by Supervisor Calcagno to approve Consent Calendar – Regular, with the exception of items 40, 45 and 21. ALL AYES

Motion by Supervisor Salinas, seconded by Supervisor Potter to reconsider approval of Consent Calendar – Regular, with the exception of 40, 45 and 21. ALL AYES

Motion by Supervisor Salinas, seconded by Supervisor Potter to approve Consent Calendar – Regular, with the exception of item 40.1 and carried by those members present, the Board of Supervisors hereby:

- a. Approved Amendment No. 3 to Professional Services Agreement No. A-11684 with EcoSystems West Consulting Group where the Base Budget of \$49,964 is increased

by \$64,165, for a total amount not to exceed \$114,129 to include 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, for a term through June 30, 2012;

- b. Approved Amendment No. 3 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget of \$49,964 is increased by \$64,165 to \$114,129 with no change to the County Surcharge of \$2,500, for a total amount not to exceed \$116,629 to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the County Planning Department to include 2011 Piperia Plan Studies and CEQA review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, for a term through June 30, 2012; and
- c. Authorized the Director of Planning to execute Amendment No. 3 to Professional Services Agreement No. A-11684, Amendment No. 3 to Reimbursement Agreement No. A-11411 and future amendments to these Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.

PASSED AND ADOPTED on this 3rd day of May, 2011, by the following vote, to wit:

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

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on May 3, 2011.

Dated: May 9, 2011

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

By   
Deputy

**AMENDMENT NO. 3  
TO REIMBURSEMENT AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
THE PEBBLE BEACH COMPANY**

**THIS AMENDMENT NO. 3** to the Reimbursement Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and The Pebble Beach Company (hereinafter, "PROJECT APPLICANT") is hereby entered into between the County and the PROJECT APPLICANT.

**WHEREAS**, PROJECT APPLICANT entered into a Reimbursement Agreement with County on May 6, 2009 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the parties on April 28, 2010 (hereinafter, "Amendment No. 1"), and April 25, 2011 (hereinafter, "Amendment No. 2"); and

**WHEREAS**, annual Piperia Plan Studies and reporting are required for the Project; and

**WHEREAS**, 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review must be conducted for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan as required by the plan for management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the County and the PROJECT APPLICANT wish to further amend the Agreement to increase the dollar amount to allow for reimbursement to Monterey County for costs incurred by ~~EcoSystems West Consulting Group and the County Planning Department to provide for 2011 Piperia Plan Studies and CEQA review for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan.~~

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

1. Amend the second sentence of Paragraph B of "Recitals", to read as follows:

CONTRACTOR shall perform the Scope of Work specified in the Professional Services Agreement, as amended, between COUNTY and CONTRACTOR, attached to this AGREEMENT as Exhibits "1", "1A" and "1B", and incorporated herein by reference as if fully set forth.

2. Amend the first sentence of Paragraph 3, "Engagement of CONTRACTOR", to read as follows:

COUNTY shall engage CONTRACTOR in accordance with the contract between COUNTY and CONTRACTOR attached hereto and incorporated by this reference as Exhibits "1", "1A" and "1B".

3. Amend Paragraph 4, "Reimbursement", to read as follows:

4. Reimbursement.

a. CONTRACTOR's Invoices.

PROJECT APPLICANT shall reimburse COUNTY the full cost of employing CONTRACTOR in accordance with the terms of Exhibits "1", "1A" and "1B" of this AGREEMENT.

Maximum Reimbursement Under AGREEMENT.

The maximum which may be charged to PROJECT APPLICANT under this AGREEMENT shall be increased by \$64,165.00, for a total amount not to exceed the sum of \$116,629.00:

CONTRACTOR's Budget:	\$ 114,129.00
COUNTY Surcharge:	\$ 2,500.00

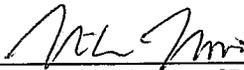
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Maximum to be Reimbursed Under AGREEMENT:      \$ 116,629.00

4. All other terms and conditions of the Agreement remain unchanged and in full force.
5. This Amendment No. 3 shall be attached to Agreement and incorporated therein as if fully set forth in the Agreement.

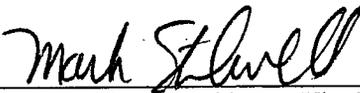
IN WITNESS WHEREOF, the parties hereby execute this Amendment No. 3 as follows:

THE COUNTY OF MONTEREY

By:   
Director of Planning

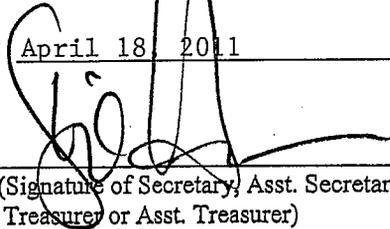
Date: 5/11/11

PROJECT APPLICANT\*

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

Mark Stilwell  
Its: Executive Vice President, General Counsel  
(Print Name and Title)

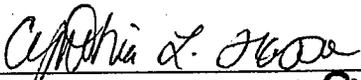
Date: April 18, 2011

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

David Heuck  
Its: Executive Vice President, Chief Financial Officer  
(Print Name and Title)

Date: April 18, 2011

Approved as to Form and Legality  
Office of the County Counsel

By:   
Deputy County Counsel **Cynthia L. Hasson**

Date: 4-20-11

# **EXHIBIT 1B**

**AMENDMENT NO. 3 TO THE  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
ECOSYSTEMS WEST CONSULTING GROUP  
AND THE COUNTY OF MONTEREY  
FOR  
2009-2011 PIPERIA PLAN STUDIES  
FOR  
THE PEBBLE BEACH COMPANY'S  
DEL MONTE FOREST PRESERVATION AND  
DEVELOPMENT PLAN**

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Page 4 of 4

Amendment No. 3 to Reimbursement Agreement  
The Pebble Beach Company  
2009-2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning Department  
Term: February 1, 2009 – June 30, 2012  
Not to Exceed: \$116,629.00

**AMENDMENT NO. 3  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ECOSYSTEMS WEST CONSULTING GROUP**

THIS AMENDMENT NO. 3 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on May 7, 2009 (hereinafter, "Agreement"); and

WHEREAS, Agreement was amended by the parties on April 30, 2010 (hereinafter, "Amendment No. 1"), and April 29, 2011 (hereinafter, "Amendment No. 2"); and

WHEREAS, annual Piperia Plan Studies and reporting are required for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan; and

WHEREAS, 2011 Piperia Plan Studies and California Environmental Quality Act (CEQA) review must be conducted for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan as required by the plan for management, protection and restoration of Yadon's Piperia; and

WHEREAS, the County and the CONTRACTOR wish to further amend the Agreement to increase the amount to provide 2011 Piperia Plan Studies and CEQA review for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan.

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

1. Amend Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibits A, A-1 and A-2 in conformity with the terms of this Agreement. The services are generally described as follows: Provide 2009 and 2010 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan. The 2011 Piperia Plan Studies and CEQA review to be included in this AGREEMENT are described in Exhibit A-2.

Amendment No. 3 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$114,129.00

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

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A, A-1 and A-2, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall be increased by \$64,165.00, for a total amount not to exceed the sum of \$114,129.00.

3. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-2, Scope of Services/Payment Provisions".
4. Amend Paragraph 8, "Indemnification", to read as follows:

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

5. Amend "Business automobile liability insurance" Section of Paragraph 9.03, to read as follows:

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.

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

6. All other terms and conditions of the Agreement remain unchanged and in full force.
7. This Amendment No. 3 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 3 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$114,129.00

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 3 to the Professional Services Agreement as of the day and year written below:

COUNTY OF MONTEREY

CONTRACTOR\*

By: [Signature]  
Director of Planning

EcoSystems West Consulting Group  
Contractor's Business Name

Date: 5/11/11

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

Its: William Davilla, OWNER  
(Print Name and Title)

Date: April 18, 2011

Approved as to Form and Legality  
Office of the County Counsel

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

By: [Signature]  
Deputy County Counsel  
**Cynthia L. Hasson**

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

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

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

Approved as to Fiscal Provisions

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

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

Approved as to Indemnity and Insurance Provisions

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

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

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including 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.

Amendment No. 3 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning Department  
Term: February 1, 2009 - June 30, 2012  
Not to Exceed: \$114,129.00



**TITLE: 2011 Piperia Studies and CEQA Review**

**DURATION: February 2011 - ~~January 2012~~ June 30, 2012**

*WBS*  
(Contractor's initials)

4-18-2011  
(Date)

**SCOPE**

In this project year, we will continue to monitor research plots established between 2005 and 2007 to inform habitat management, enhancement, and transplantation projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest. The studies were identified by the project Adaptive Management Team (AMT) as priorities for research as part of Phase 1a testing of the Final Piperia Plan, which was being developed to mitigate impacts of the Del Monte Forest Preservation and Development Plan (DMF/PDP). Though changes to the proposed development may render unnecessary the Final Piperia Plan, at least as previously outlined, the research program has been recognized by the AMT as invaluable for informing management of protected habitat within the Del Monte Forest in order to conserve Yadon's piperia. Moreover, results of the research can be used to design successful enhancement projects to mitigate the impacts of other future development within the region.

This scope of work describes monitoring of previously established research studies for the 12 month period beginning in February 2011. In addition, following the completion of this year's field data gathering we will enter the data for the past three year period through 2011, conduct statistical analysis to evaluate the status and trends of *P. yadonii* populations over that period and summarize these findings in a three-year report.

Also, EcoSystems West will conduct field surveys within those parcels identified for development in the Pebble Beach Plan Area to locate and map the extent of *P. yadonii* occurrences within the proposed development footprints.

**INTRODUCTION**

The ongoing research in this project is designed to answer the following main questions:

1. What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?
2. What factors might influence establishment of *Piperia yadonii* from seed and success of *P. yadonii* establishment following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?
3. What habitat factors influence *P. yadonii* individual and population performance?

These questions were identified by the AMT as being most important to inform enhancement, management, and/or transplantation of Yadon's piperia. For each question, we provide background information about the relevance to conservation and management, and describe study methods for 2011. The reader is referred to the Report of the 2006-2007 Piperia Plan Studies (EcoSystems West Consulting Group 2008) for more detail about the studies for which ongoing monitoring is recommended in 2011.

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

2011 Piperia Plan Studies

### TASKS

Because modifications to the proposed development project may render mass salvage and translocation of Yadon's piperia tubers unnecessary, this scope of work *does not* include additional effort to design a salvage and transplantation process, as were included as part of Task 1 in prior scopes of work and reports. Task 1 now identifies our approach to assessing the impacts of the proposed Pebble Beach Del Monte Forest (DMF) Plan Development on *P. yadonii* occurrences that may be affected by the project.

#### Task 1: Conduct CEQA Review of the Proposed Pebble Beach DMF Plan Development Impacts on *P. yadonii*

##### Subtask 1.1: Conduct *P. yadonii* Field Survey with Proposed Project Areas within Potential Habitat

We will conduct field surveys to locate *P. yadonii* occurrences within the proposed development footprints as described in the submitted application No. PLN100138 dated August 30, 2010. In general the DMF Plan project will consist of visitor serving improvements at the Spanish Bay Resort and the Lodge at Pebble Beach within the footprint of the existing facilities, the construction of a 100-room Hotel at Spyglass Hill Golf Course along with adjacent parking area, relocation of the Pebble Beach Golf Links Driving Range to Collins Field, and the creation of 90 residential lots within nine subdivisions along with various supporting road and drainage infrastructure improvements. Field survey will be conducted during the vegetative above ground phenology of Piperia. The area of piperia plants encountered in the development footprints will be mapped with resource grade GPS for inclusion in Project-level geographic information system (GIS) data base.

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##### ~~Subtask 1.2: Review *P. yadonii* section of the Draft EIR with Impact Assessment and Mitigations~~

EcoSystems West will review the *P. yadonii* write-up and impact and mitigation measures in the Biological Section of the DEIR prepared by ICF. The focus of the review will be to peer review to insure consistency with the findings of the Piperia Study and collaborate with ICF (Jones and Stokes) on the need and type of mitigation measures (if necessary) to mitigate project impacts on the plant.

##### Subtask 1.3: Review Response to Comments for FEIR

We will review all response to comments prepared by ICF to the DEIR relating to *P. yadonii* for consistency with our science based knowledge of the plant.

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

2011 Piperia Plan Studies

### Subtask 1.4: Teleconference Meetings with County of Monterey and ICF

The principal investigators will attend at the request of the County and/or ICF teleconference meetings on the EIR and/or prior to meetings with other agencies (for this scope we estimated a maximum of 2 meetings for two people for an hour each).

### Task 2: Investigate Horticultural Techniques for *P. yadonii*

#### Question

What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?

#### Background

In 2006, we established a series of trials to examine techniques to successfully translocate and store *P. yadonii* tubers obtained from the development area at MNOUV, as well as store seed-used in experiments evaluating factors influencing seedling establishment in the other areas (EcoSystems West Consulting Group 2007). Ongoing monitoring of these trials can increase understanding of the ecology of Yadon's piperia, and be used to design habitat management and enhancement efforts. The following ongoing tasks are recommended to obtain answers to the original questions posed.

#### Task 2.1: Evaluate Tuber Storage

In fall 2006, we established a study comparing the efficacy of storing tubers in flats with soil in a lath house, a greenhouse, and within the Monterey Pine Forest. In fall 2007, the tubers were excavated and examined, then re-potted into larger containers that allow monitoring of individual demographic performance. The following tasks will increase understanding of Yadon's piperia tuber biology through evaluation of their performance *ex situ*.

- 2.1.1 **Monitor Vegetative Status:** In spring, we will examine whether each tuber produced a vegetation plant, and if so, measure the number of leaves and longest leaf length.
- 2.1.2 **Monitor Reproductive Status:** In summer, we will determine the proportion of vegetation plants that reproduced, were diseased, and/or browsed.
- 2.1.3 **Data Analysis:** This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a data base and statistically analyzed and summarized in the 2011 summary report.

#### Task 2.2: Evaluate Success of Translocated *Piperia yadonii*

In fall 2006, a tree spade was used to translocate five soil cores containing *P. yadonii* from three donor sites to three receiver sites within MNOUV. In spring 2007, five, unmoved control plots were established to facilitate examination of the effects of translocation. In addition to informing success of tuber salvage and translocation, this study can increase understanding of Yadon's piperia biology needed to inform conservation, by for example, helping understand what constitutes appropriate habitat for the endangered orchid, as tubers were translocated into apparently suitable but unoccupied habitat. The following steps are proposed to evaluate success of the transplantation treatment.

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

2011 Piperia Plan Studies

**2.2.1 Monitor Vegetative Plant Status:** In the spring, we will measure the following in each of the five translocation cores and 5 control plots:

- Number of vegetative *Piperia*: one leaf, two leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).

**2.2.2 Monitor Reproductive Plant Status:** In summer, we will measure the following within each of the 5 translocation cores and 5 control plots:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of 10 randomly chosen plants

**2.2.3 Data Analysis:** This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a data base and statistically analyzed and summarized in the 2011 summary report.

### Task 2.3: Seed Storage Studies

This study has been completed in 2008. No additional studies are proposed.

### Task 2.4: Horticultural Techniques Data Entry and Analysis

This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a database and statistically analyzed and summarized in the 2011 summary report.

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### Task 3: Experimental evaluation of *Piperia yadonii* regeneration niche and establishment following exotic plant removal

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#### Question

What factors might influence establishment of *Piperia yadonii* from seed following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?

#### Background

In spring 2006, we established a small-scale manipulative experiment to evaluate the independent and interactive effects of factors hypothesized to influence seedling establishment following removal of three types of exotic plants most commonly observed in or adjacent to habitat occupied by *Piperia yadonii*: 1) French broom, 2) *Acacia* species (there are more than one in the DMF/PDP Areas), and 3) rattlesnake grass. This experiment also included litter removal and seed addition treatments designed to examine the independent and interactive effects of removing litter and adding the seed of *Piperia yadonii* to establish populations of the rare plant in exotic plant treatment areas, as well as areas of apparently suitable but unoccupied habitat. In 2007, additional litter removal and seed addition plots were added to the 10 experimental blocks located within suitable but unoccupied habitat, allowing examination of the effects of inter-annual variability in weather on *Piperia yadonii* establishment.

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

2011 *Piperia* Plan Studies

We propose the following steps to evaluate the effects of these experimental treatments to inform design of enhancement treatments, as well as management of Yadon's *piperia* habitat.

- 3.1 **Monitor Vegetative Plant Status:** In the spring, we will revisit each of the 176, 1 m<sup>2</sup> plots established in this experiment to measure the following:
  - Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).
- 3.2 **Monitor Reproductive Plant Status:** In summer, we will revisit the treatment plots that had vegetative *Piperia* in the spring to measure following:
  - Number of *Piperia* that initiated production of an inflorescence
  - Number of *Piperia* that were browsed and/or diseased
  - Mean reproduction (capsule production) of 10 randomly chosen plants
- 3.3 **Analysis and Reporting:** This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a data base and statistically analyzed and summarized in the 2011 summary report.

### Task 4: Examine habitat factors influencing *P. yadonii* performance

#### Question

What habitat factors influence the interannual variability in *P. yadonii* individual and population performance?

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#### Background

The *Piperia yadonii* habitat characterization indicated that, within the Del Monte Forest, *Piperia yadonii* occurs within a range of habitat conditions, in terms of plant community composition, soil conditions, and vegetation structure (EcoSystems West Consulting Group 2006). However, it is not currently known whether habitat conditions influence individual plant or patch performance, and thus population persistence. Indeed, there is little basic information available about the demographic rates for *Piperia yadonii*. This information can increase understanding of the biology of Yadon's *piperia* needed to inform habitat management and enhancement, as well as to evaluate their effectiveness.

- 4.1 **Examine Vegetative Plants:** The 54 permanent *P. yadonii* sites established in the 14 DMF/PDP Areas west of Highway 1 as part of the *Piperia yadonii* Habitat Characterization will be revisited during spring to collect the following data:
  - Number of vegetative *Piperia*: one leaf, two leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of 10 randomly chosen plants in each plot).
  - Status of the 5 target (marked) plants (aboveground vs. dormant, size if aboveground)
- 4.2 **Monitor Reproductive Plant Status:** In summer, we will revisit the permanent plots to measure following:
  - Number of *Piperia* that initiated production of an inflorescence
  - Number of *Piperia* that were browsed and/or diseased
  - Mean reproduction (capsule production) of 10 randomly chosen plants

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

2011 Piperia Plan Studies

- Reproductive status of the five target plants (flowered? Browsed? Diseased? Number of fruits produced)

**4.3 Data Analysis and Reporting:** This subtask will be conducted during this project year to the last three years of field monitoring. All data will be entered into a data base and statistically analyzed and summarized in the 2011 summary report.

### Task 6: Coordinate Adaptive Management Team

As part of our work on this project, we will coordinate and participate in the Adaptive Management Team (AMT) that will review and guide implementation of these studies. In order to reduce costs associated with more frequent meetings, we propose that the AMT meet two times via short one hour teleconferences:

- May 2011: Telephone conference call to discuss spring work
- September 2011: Telephone conference call to discuss summer work

### Task 7: Project Management

Project management will consist of short phone updates with County of Monterey project staff and Pebble Beach Company project staff. No formal progress reports will be prepared as a cost savings measure.

### Task 8: Prepare Three-Year Summary Report of Piperia Studies

EcoSystems West will prepare a report documenting results of our research conducted since 2005 to inform habitat management, enhancement, and transplanted projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest. Specifically, we will enter and analyze data that have been collected in the field during 2009, 2010, and 2011 but has not yet been entered into the project database since the most recent report was prepared in 2009, which evaluated results from 2005-2008. We will conduct statistical analyses to evaluate the status and trends in *P. yadonii* populations in 2009 and 2010. We will analyze the 2011 data, as feasible, though note that this EIR will occur amidst the 2011 data collection period and so not all information from 2011 will be available or utilized in the reporting until September 2011.

The report will address three main questions that we explored with our experimental research:

1. What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?
2. What factors might influence establishment of *Piperia yadonii* from seed and success of *P. yadonii* establishment following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *P. yadonii*?
3. What habitat factors influence *P. yadonii* individual and population performance?

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

2011 Piperia Plan Studies

Table 1 outlines the data that will be analyzed as part of the individual components of the three research topics. More information about the research is available in the *Report of Piperia yadonii Studies: 2006-2008* (McGraw and Buck 2009).

**Table 1: Individual components of the three main research topics**

Topic	Component	Data Analysis
1. Horticultural Techniques	Evaluate <i>P. yadonii</i> tuber storage techniques	Demographic performance (emergence, stage class, survivorship, reproduction, and disease incidence, etc.) of <i>P. yadonii</i> tubers stored in greenhouse, lath house, and field conditions
	Evaluate success of translocated <i>Piperia yadonii</i>	Demographic performance of <i>Piperia yadonii</i> in 5 translocated soil cores
2. Experimental evaluation of <i>Piperia yadonii</i> regeneration	Suitable but unoccupied habitat	Density of <i>P. yadonii</i> within plots in 10 locations of apparently suitable but unoccupied habitat where we raked litter (to simulate a ground fire) and/or added seed.
	Establishment following exotic plant removal	Density of <i>P. yadonii</i> within three exotic plant control treatment areas (acacia, French broom, and rattlesnake grass) where we also raked litter (to simulate a ground fire) and/or added seed.
3. Examine Habitat Factors Influence <i>P. yadonii</i> performance	Long term abundance monitoring	Abundance, size distribution, and incidence of disease and herbivory in 52 permanent plots within a variety of habitat conditions monitored annually since 2005.
	Individual demographic monitoring	Demographic performance of approximately 200 tagged plants monitored within 52 permanent plots since 2005.

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

2011 Piperia Plan Studies

### REFERENCES

EcoSystems West Consulting Group 2004. Draft Transplantation Design, Enhancement, and Adaptive Management Plan (TEAM) for Yadon's Piperia for the Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Report submitted to the County of Monterey Planning and Building Inspection Department. January 2004. 47 pages + appendices.

EcoSystems West Consulting Group 2006a. Habitat Characterization for Yadon's Piperia (*Piperia yadonii*) within the Forested Habitat of the Monterey Peninsula. Administrative draft submitted to Monterey County January 10, 2006.

EcoSystems West Consulting Group 2006b. Memo to the Adaptive Management Team describing the goals, objectives, and key definitions for the Final Piperia Plan. April 26, 2006.

EcoSystems West Consulting Group 2008. *Draft* Report of 2006-2007 Piperia Plan Studies. Administrative draft submitted to Monterey County. February 20, 2008.

Jones and Stokes. 2005. Pebble Beach Company's Del Monte Forest Preservation and Development Plan. Final Environmental Impact Report. Volume I. Monterey County Planning and Building Inspection Department, Marina, CA. January 2005.



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

PAYMENT PROVISIONS

Invoices for services performed under the AGREEMENT shall be submitted quarterly based upon a percentage of task completion and delivery of the final product and shall include the following:

1. Invoice Coversheet

EcoSystems West Consulting Group
2009-2011 Piperia Plan Studies and CEQA Review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan

Date: Invoice No.

Original Agreement Term: February 1, 2009 to April 30, 2010
Original Agreement Amount: \$ 24,999.00 (\$24,999.00 base budget plus \$0.00 project contingency)
Amendment No. 1: \$ 24,965.00 (\$24,965.00 base budget plus \$0.00 project contingency) Extension of Term to April 30, 2011
Amendment No. 2: Extension of Term to June 30, 2012
Amendment No. 3: \$ 64,165.00 (\$64,165.00 base budget plus \$0.00 project contingency)
Total Agreement Amount: \$114,129.00 (\$114,129.00 base budget plus \$0.00 project contingency)

Prior Invoices: (Under this Agreement)

This Invoice:

Remaining Balance

Approved as to Work/Payment: Joseph Sidor, Associate Planner

Date

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

2. Invoice Detail

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

**AMENDMENT NO. 4  
TO REIMBURSEMENT AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
THE PEBBLE BEACH COMPANY**

**THIS AMENDMENT NO. 4** to the Reimbursement Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and The Pebble Beach Company (hereinafter, "PROJECT APPLICANT") is hereby entered into between the County and the PROJECT APPLICANT (collectively, the County and PROJECT APPLICANT are referred to as the "Parties").

**WHEREAS**, PROJECT APPLICANT entered into a Reimbursement Agreement with County on May 6, 2009 (hereinafter "Agreement"); and

**WHEREAS**, Agreement was amended by the Parties on April 28, 2010 (hereinafter, "Amendment No. 1"), April 25, 2011 (hereinafter, "Amendment No. 2"), and May 11, 2011 (hereinafter, "Amendment No. 3"); and

**WHEREAS**, PROJECT APPLICANT has applied to the County for approval of various development permits for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (hereinafter, "PROJECT") requiring annual Piperia Plan Studies; and

**WHEREAS**, County engaged EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") to complete annual Piperia Plan Studies for the PROJECT; and

**WHEREAS**, additional time is necessary to allow the Parties to negotiate new tasks associated with 2012 Piperia Plan Studies required for completion of the PROJECT as required by the plan for management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to June 30, 2013 with no associated dollar amount increase to allow additional time to negotiate new tasks associated with 2012 Piperia Plan Studies necessary for completion of the PROJECT.

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

1. Amend Paragraph 7, "Term", to read as follows:

AGREEMENT shall become effective February 1, 2009 and continue through June 30, 2013, unless terminated pursuant to Paragraph 8 of AGREEMENT.

Page 1 of 3

Amendment No. 4 to the Reimbursement Agreement  
The Pebble Beach Company  
2009 – 2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning Department  
Term: February 1, 2009 – June 30, 2013  
Not to Exceed: \$116,629.00

2. Amend the first sentence of Paragraph 8, "Termination", to read as follows:

AGREEMENT shall terminate on June 30, 2013, but may be terminated earlier by PROJECT APPLICANT or COUNTY, by giving fourteen (14) days written notice to the other.

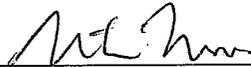
3. All other terms and conditions of the Agreement remain unchanged and in full force.
4. This Amendment No. 4 shall be attached to Agreement and incorporated therein as if fully set forth in the Agreement.

Page 2 of 3

Amendment No. 4 to the Reimbursement Agreement  
The Pebble Beach Company  
2009 – 2011 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning Department  
Term: February 1, 2009 – June 30, 2013  
Not to Exceed: \$116,629.00

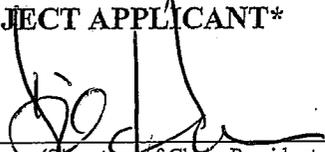
IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 4 as follows:

**THE COUNTY OF MONTEREY**

By:   
Director of Planning

Date: 6/27/12

**PROJECT APPLICANT\***

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

Its: DAVID HEUCK EIR/CFO  
(Printed Name and Title)

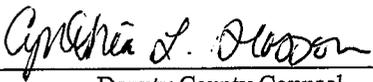
Date: 6/22/12

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

Its: DAVID STUWS EIR/Secretary  
(Printed Name and Title)

Date: 6/25/12

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

By:   
Deputy County Counsel

Date: 6-27-12

\*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.

**AMENDMENT NO. 5  
TO REIMBURSEMENT AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
THE PEBBLE BEACH COMPANY**

**THIS AMENDMENT NO. 5** to the Reimbursement Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and The Pebble Beach Company, (hereinafter, "PROJECT APPLICANT") is hereby entered into between the County and the PROJECT APPLICANT (collectively, the County and PROJECT APPLICANT are referred to as the "Parties") as of the last date opposite the respective signatures below.

**WHEREAS**, PROJECT APPLICANT entered into a Reimbursement Agreement with County on May 6, 2009 (hereinafter "Agreement"); and

**WHEREAS**, Agreement was amended by the Parties on April 28, 2010 (hereinafter, "Amendment No. 1"), April 25, 2011 (hereinafter, "Amendment No. 2"), May 11, 2011 (hereinafter, "Amendment No. 3"), and June 27, 2012 (hereinafter, "Amendment No. 4"); and

**WHEREAS**, PROJECT APPLICANT has applied to the County for approval of various development permits for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (hereinafter, "PROJECT") requiring annual Piperia Plan Studies; and

**WHEREAS**, County engaged EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") to complete annual Piperia Plan Studies for the PROJECT; and

**WHEREAS**, additional time is necessary to allow the Parties to negotiate new tasks associated with Piperia Plan Studies required for completion of the PROJECT as required by the plan for management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to June 30, 2015 with no associated dollar amount increase to allow additional time for the negotiation and inclusion of new tasks for completion of the PROJECT.

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

1. Amend Paragraph 7, "Term", to read as follows:

AGREEMENT shall become effective February 1, 2009 and continue through June 30, 2015, unless terminated pursuant to Paragraph 8 of AGREEMENT.

Page 1 of 3

Amendment No. 5 to the Reimbursement Agreement  
The Pebble Beach Company  
2009-2012 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning  
Term: February 1, 2009 - June 30, 2015  
Not to Exceed: \$116,629.00

2. Amend the first sentence of Paragraph 8, "Termination", to read as follows:

AGREEMENT shall terminate on June 30, 2015, but may be terminated earlier by PROJECT APPLICANT or COUNTY, by giving fourteen (14) days' written notice to the other.

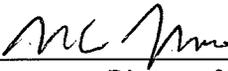
3. All other terms and conditions of the Agreement remain unchanged and in full force.
4. This Amendment No. 5 shall be attached to Agreement and incorporated therein as if fully set forth in the Agreement.

Page 2 of 3

Amendment No. 5 to the Reimbursement Agreement  
The Pebble Beach Company  
2009-2012 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning  
Term: February 1, 2009 – June 30, 2015  
Not to Exceed: \$116,629.00

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 5 as of the last date opposite the respective signatures below:

**THE COUNTY OF MONTEREY**

By:   
Director of Planning

Date: 6/7/13

**PROJECT APPLICANT\***

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

Its: Mark Stilwell, Executive Vice President, Real Estate  
(Printed Name and Title)

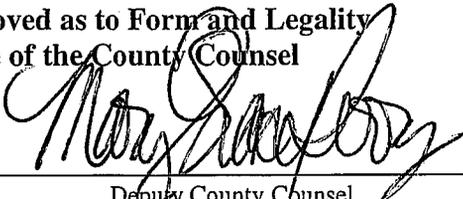
Date: May 23, 2013

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

Its: David Heuck, Executive Vice President and CFO  
(Printed Name and Title)

Date: 5/22/13

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

By:   
Deputy County Counsel

Date: 6-6-2013

\*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.



## Monterey County

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

### Board Order

**Agreement No.'s: A-11684; A-11411**

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

- a. Approved Amendment No. 6 to Professional Services Agreement No. A-11684 with EcoSystems West Consulting Group where the Base Budget is increased by \$57,820, for a total amount not to exceed \$171,949, to allow payment of rendered services associated with completion of 2013 Piperia Plan Studies and to provide 2014 Piperia Plan Studies for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, and extend the term to June 30, 2016; and
- b. Approved Amendment No. 6 to Reimbursement Agreement No. A-11411 with The Pebble Beach Company where the Base Budget is increased by \$57,820 with no change to the County Surcharge of \$2,500, for a total amount not to exceed \$174,449, to allow reimbursement to Monterey County for costs incurred by EcoSystems West Consulting Group and the Resource Management Agency - Planning for rendered services associated with the completion of 2013 Piperia Plan Studies, and to provide 2014 Piperia Plan Studies for completion of The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN100138) in Pebble Beach, and extend the term to June 30, 2016; and
- c. Authorized the Director of Planning to execute Amendment No. 6 to Professional Services Agreement No. A-11684, Amendment No. 6 to Reimbursement Agreement No. A-11411 and future amendments to these Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.  
(PLN100138/2009 - 2014 Piperia Plan Studies for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan)

PASSED AND ADOPTED on this 16th day of December 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter  
NOES: None  
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on December 16, 2014.

Dated: December 18, 2014  
File Number: A 14-287

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

By   
Deputy

**AMENDMENT NO. 6  
TO REIMBURSEMENT AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
THE PEBBLE BEACH COMPANY**

**THIS AMENDMENT NO. 6** to the Reimbursement Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and The Pebble Beach Company, (hereinafter, "PROJECT APPLICANT") is hereby entered into between the County and the PROJECT APPLICANT (collectively, the "Parties") as of the last date opposite the respective signatures below.

**WHEREAS**, PROJECT APPLICANT entered into a Reimbursement Agreement with County on May 6, 2009 (hereinafter "Agreement"); and

**WHEREAS**, Agreement was amended by the Parties on April 28, 2010 (hereinafter, "Amendment No. 1", including Exhibit 1A, Amendment No. 1 to the Professional Services Agreement (PSA)), April 25, 2011 (hereinafter, "Amendment No. 2"), May 11, 2011 (hereinafter, "Amendment No. 3", including Exhibit 1B, Amendment No. 3 to the PSA), June 27, 2012 (hereinafter, "Amendment No. 4"), and June 7, 2013 (hereinafter, "Amendment No. 5") and incorporated into the Agreement by this reference; and

**WHEREAS**, PROJECT APPLICANT has applied to the County for approval of various development permits for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (hereinafter, "Project" or "Plan"); and

**WHEREAS**, County engaged EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") to complete annual Piperia Plan Studies for the Project; and

**WHEREAS**, additional time is necessary to allow for 2014 Piperia Plan Studies and future Piperia Plan Studies for completion of the Project; and

**WHEREAS**, additional funding is necessary to allow payment to CONTRACTOR for services rendered toward completion of the 2013 Piperia Plan Studies for the Project and to allow CONTRACTOR to provide 2014 Piperia Plan Studies for completion of the Project as required by the Plan for the management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to June 30, 2016, to increase the amount by \$57,820 to continue to allow reimbursement by the PROJECT APPLICANT to the County for costs incurred by the CONTRACTOR for services rendered toward the completion of the 2013 Piperia Plan Studies, and to allow CONTRACTOR to provide 2014 Piperia Plan Studies and future Piperia Plan Studies for completion of the Project as identified in the Agreement and as amended by this Amendment No. 6.

Page 1 of 4

Amendment No. 6 to the Reimbursement Agreement  
The Pebble Beach Company  
2009-2014 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning  
Term: February 1, 2009 - June 30, 2016  
Not to Exceed: \$174,449.00

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

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

The Resource Management Agency – Director of Planning, hereinafter, DIRECTOR, and PROJECT APPLICANT agree that it is necessary and desirable that County engage EcoSystems West Consulting Group, hereinafter, CONTRACTOR, to prepare the 2009 – 2014 Piperia Plan Studies, attend meetings, and perform related work. CONTRACTOR shall perform the Scope of Work specified in the Professional Services Agreement (PSA), as amended, between COUNTY and CONTRACTOR, attached to this AGREEMENT as Exhibits "1", "1A", "1B", and "1C", and incorporated herein by reference as if fully set forth. County shall manage THE PIPERIA PLAN performed by CONTRACTOR.

2. Amend the first sentence of Paragraph 3, "Engagement of CONTRACTOR.", to read as follows:

COUNTY shall engage CONTRACTOR in accordance with the PSA between COUNTY and CONTRACTOR attached hereto and incorporated by this reference as Exhibits 1, 1A, 1B and 1C.

3. Amend Paragraph 4, "Reimbursement.", to read as follows:

4. Reimbursement

- a. CONTRACTOR's Invoices.

PROJECT APPLICANT shall reimburse COUNTY the full cost of employing CONTRACTOR in accordance with the terms of Exhibits "1", "1A", "1B" and "1C" of this AGREEMENT.

Maximum Reimbursement Under AGREEMENT.

The maximum which may be charged to PROJECT APPLICANT under this AGREEMENT shall be increased by \$57,820, for a total amount not to exceed the sum of \$174,449.00:

CONTRACTOR's Budget:	\$ 171,949
COUNTY Surcharge:	\$ 2,500

<u>Maximum to be Reimbursed Under AGREEMENT</u>	<u>\$ 174,449</u>
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Page 2 of 4

Amendment No. 6 to the Reimbursement Agreement  
The Pebble Beach Company  
2009-2014 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning  
Term: February 1, 2009 – June 30, 2016  
Not to Exceed: \$174,449.00

4. Amend Paragraph 7, "Term.", to read as follows:

AGREEMENT shall become effective February 1, 2009 and continue through June 30, 2016, unless terminated pursuant to Paragraph 8 of AGREEMENT.

5. Amend the first sentence of Paragraph 8, "Termination.", to read as follows:

AGREEMENT shall terminate on June 30, 2016, but may be terminated earlier by PROJECT APPLICANT or COUNTY, by giving fourteen (14) days written notice to the other.

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

7. This Amendment No. 6 shall be attached to Agreement and incorporated therein as if fully set forth in the Agreement.

8. The recitals to this Amendment No. 6 are incorporated into the Agreement and this Amendment No. 6.

Page 3 of 4

Amendment No. 6 to the Reimbursement Agreement  
The Pebble Beach Company  
2009-2014 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning  
Term: February 1, 2009 – June 30, 2016  
Not to Exceed: \$174,449.00

IN WITNESS WHEREOF, the Parties hereby execute this Amendment No. 6 to the Agreement as of the last date opposite the respective signatures below:

**THE COUNTY OF MONTEREY**

By: Art Nuro  
Director of Planning

Date: 12/19/14

**PROJECT APPLICANT\***

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

Its: Executive Vice President, CAO  
(Printed Name and Title)

Date: November 10, 2014

By: David Heuck  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: Executive Vice President, CFO  
(Printed Name and Title)

Date: November 10, 2014

*MS*

*MS*

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

By: Mary Grace Perry  
Deputy County Counsel

Date: 12-3-14

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

# **EXHIBIT 1C**

**AMENDMENT NO. 6 TO THE  
PROFESSIONAL SERVICES  
AGREEMENT  
BETWEEN  
ECOSYSTEMS WEST CONSULTING  
GROUP  
AND THE COUNTY OF MONTEREY  
FOR 2009-2014 PIPERIA PLAN STUDIES  
FOR  
THE PEBBLE BEACH COMPANY'S  
DEL MONTE FOREST PRESERVATION  
AND  
DEVELOPMENT PLAN**

Amendment No. 6 to the Reimbursement Agreement  
The Pebble Beach Company  
2009-2014 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning  
Term: February 1, 2009 – June 30, 2016  
Not to Exceed: \$174,449.00

**AMENDMENT NO. 6  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
ECOSYSTEMS WEST CONSULTING GROUP**

**THIS AMENDMENT NO. 6** to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and EcoSystems West Consulting Group (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") as of the last date opposite the respective signatures below.

**WHEREAS**, CONTRACTOR entered into a Professional Services Agreement with County on May 7, 2009 (hereinafter, "Agreement"); and

**WHEREAS**, Agreement was amended by the Parties on April 30, 2010 (hereinafter, "Amendment No. 1", including Exhibit A-1 – Scope of Services/Payment Provisions), April 29, 2011 (hereinafter, "Amendment No. 2"), May 11, 2011 (hereinafter, "Amendment No. 3", including Exhibit A-2 – Scope of Services/Payment Provisions), June 27, 2012 (hereinafter, "Amendment No. 4"), and June 7, 2013 (hereinafter, "Amendment No. 5") and incorporated into the Agreement by this reference; and

**WHEREAS**, annual Piperia Plan Studies and reporting continue to be required for 2013 and 2014 for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan (hereinafter, "Project" or "Plan"); and

**WHEREAS**, additional time is necessary to allow for the 2014 Piperia Plan Studies and future Piperia Plan Studies for completion of the Project; and

**WHEREAS**, additional funding is necessary to allow payment to CONTRACTOR for services rendered toward completion of the 2013 Piperia Plan Studies for the Project and to allow CONTRACTOR to provide 2014 Piperia Plan Studies for completion of the Project as required by the Plan for the management, protection and restoration of Yadon's Piperia; and

**WHEREAS**, the Parties wish to further amend the Agreement to extend the term to June 30, 2016, to increase the amount by \$57,820 to allow payment to CONTRACTOR for services rendered toward the completion of the 2013 Piperia Plan Studies, and to allow CONTRACTOR to provide 2014 Piperia Plan Studies and future Piperia Plan Studies for completion of the Project as identified in the Agreement and as amended by this Amendment No. 6.

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

1. Amend Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1, A-2 and A-3** in conformity with the terms of this Agreement. The services are generally described as follows:

Amendment No. 6 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2014 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA – Planning  
Term: February 1, 2009 – June 30, 2016  
Not to Exceed: \$171,949.00

Provide 2009 – 2014 Piperia Plan Studies for the Pebble Beach Company’s Del Monte Forest Preservation and Development Plan. The 2013 and 2014 Piperia Plan Studies included in this Agreement are described in Exhibit A-3, Scope of Services/Payment Provisions.

2. Amend Paragraph 2, “Payments by County”, to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, A-2 and A-3**, 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 \$171,949.

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

The term of this Agreement is from February 1, 2009 to June 30, 2016, unless sooner terminated pursuant to the terms of this Agreement

4. Amend Paragraph 4, “Additional Provisions/Exhibits”, by adding “Exhibit A-3, Scope of Services/Payment Provisions”.

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

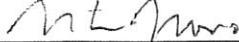
6. This Amendment No. 6 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

7. The recitals to this Amendment No. 6 are incorporated into the Agreement and this Amendment No. 6.

Amendment No. 6 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2014 Piperia Plan Studies for The Pebble Beach Company’s  
Del Monte Forest Preservation and Development Plan  
RMA – Planning  
Term: February 1, 2009 – June 30, 2016  
Not to Exceed: \$171,949.00

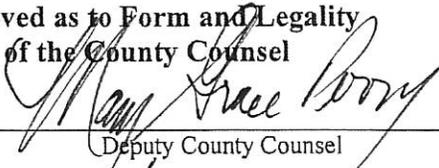
IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 6 to the Agreement as of the last date opposite the respective signatures below:

**COUNTY OF MONTEREY**

By:   
Director of Planning

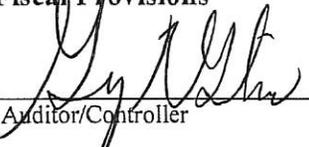
Date: 12/19/14

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

By:   
Deputy County Counsel

Date: 12-3-2014

**Approved as to Fiscal Provisions**

By:   
Auditor/Controller

Date: 11-5-14

**Approved as to Indemnity, Insurance Provisions**

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

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

**CONTRACTOR\***

EcoSystems West Consulting Group  
Contractor's Business Name

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

Its: William Davila, OWNER  
(Printed Name and Title)

Date: OCT 21, 2014

By: SOLE PROPRIETORSHIP  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

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

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

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

Amendment No. 6 to Professional Services Agreement  
EcoSystems West Consulting Group  
2009-2014 Piperia Plan Studies for The Pebble Beach Company's  
Del Monte Forest Preservation and Development Plan  
RMA - Planning  
Term: February 1, 2009 - June 30, 2016  
Not to Exceed: \$171,949.00

EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

2013 and 2014 Piperia Studies and CEQA Review

DURATION: February 2013–January 2014 and February 2014 – June 2015

SCOPE

In project year 2013 and 2014, EcoSystems West Consulting Group (EcoSystems) will continue to monitor research plots established between 2005 and 2007 to inform habitat management, enhancement, and transplantation projects for Yadon's piperia (*Piperia yadonii*)—a federally endangered orchid found within the Del Monte Forest (DMF). The studies were identified by the project Adaptive Management Team (AMT) as priorities for research as part of Phase 1A testing of the Final Piperia Plan, which is being developed to mitigate impacts of the DMF Preservation and Development Plan (DMF/PDP). Though changes to the proposed development may render the Final Piperia Plan as unnecessary as previously outlined, the research program has been recognized by the AMT as invaluable for informing management of protected habitat within the DMF in order to conserve *Piperia yadonii*. Moreover, results of the research can be used to design successful enhancement projects to mitigate the impacts of other future development within the region.

This scope of work describes monitoring of previously established research studies for the 29 month period beginning in February 2013 and through June 2015. In addition, due to the one year hiatus of monitoring in 2012, following the completion of the 2015 field data gathering, EcoSystems will enter the data for these three field years and conduct statistical analysis to evaluate the 2013, 2014 and 2015 status of *Piperia yadonii* populations to compare with previous years to see if results are within the range of population demographics seen in previous years.

TASKS

WR  
(Contractor's Initials)

11/27/14  
(Date)

Task 1: Conduct California Environmental Quality Act (CEQA) Review of the Proposed Pebble Beach DMF Plan Development Impacts on *Piperia yadonii*

Because modifications to the proposed development project may render mass salvage and translocation of *Piperia yadonii* tubers unnecessary, this scope of work *does not* include additional effort to design a salvage and transplantation process, as were included as part of Task 1 in prior scopes of work and reports.

Task 2: Investigate Horticultural Techniques for *Piperia yadonii*

Question

What horticultural techniques will facilitate successful use of *Piperia yadonii* materials during research and testing, and ultimately in enhancement projects?

Background

In 2006, EcoSystems established a series of trials to examine techniques to successfully translocate and store *Piperia yadonii* tubers obtained from the development area at Units MNOUV (known geographic reference area) within the DMF, as well as store seed used in experiments evaluating factors influencing seedling establishment in the other areas (EcoSystems West Consulting Group 2007). Ongoing monitoring of these trials can increase understanding of the ecology of *Piperia yadonii*, and be used to design habitat management and enhancement efforts. The following ongoing tasks are recommended to obtain answers to the original questions posed.

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 2.1: Evaluate Tuber Storage

In the fall of 2006, EcoSystems established a study comparing the efficacy of storing tubers in flats with soil in a lath house, a greenhouse, and within the Monterey Pine Forest. In the fall of 2007, the tubers were excavated and examined, then re-potted into larger containers that allow monitoring of individual demographic performance. The following tasks will increase understanding of *Piperia yadonii* tuber biology through evaluation of their performance *ex situ*.

- 2.1.1 Monitor Vegetative Status:** In the spring of 2013 and 2014, EcoSystems will examine whether each tuber produced a vegetation plant, and if so, measure the number of leaves and longest leaf length.
- 2.1.2 Monitor Reproductive Status:** In the summer of 2013 and 2014, EcoSystems will determine the proportion of vegetation plants that reproduced, were diseased, and/or browsed.
- 2.1.3 Data Analysis:** This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

### Task 2.2: Evaluate Success of Translocated *Piperia yadonii*

In the fall of 2006, a tree spade was used to translocate five (5) soil cores containing *Piperia yadonii* from three (3) donor sites to three (3) receiver sites within MNOUV. In the spring of 2007, five (5), unmoved control plots were established to facilitate examination of the effects of translocation. In addition to informing success of tuber salvage and translocation, this study can increase understanding of *Piperia yadonii* biology needed to inform conservation, by for example, helping understand what constitutes appropriate habitat for the endangered orchid, as tubers were translocated into apparently suitable but unoccupied habitat. The following steps are proposed to evaluate success of the transplantation treatment.

- 2.2.1 Monitor Vegetative Plant Status:** In the spring of 2013 and 2014, EcoSystems will measure the following in each of the five (5) translocation cores and five (5) control plots:
  - Number of vegetative *Piperia*: one (1) leaf, two (2) leaf, and total
  - Mean longest leaf length (determined by measuring the longest leaf of ten (10) randomly chosen plants in each plot).
- 2.2.2 Monitor Reproductive Plant Status:** In the summer of 2013 and 2014, EcoSystems will measure the following within each of the five (5) translocation cores and five (5) control plots:
  - Number of *Piperia* that initiated production of an inflorescence
  - Number of *Piperia* that were browsed and/or diseased
  - Mean reproduction (capsule production) of ten (10) randomly chosen plants
- 2.2.3 Data Analysis:** This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 2.3: Seed Storage Studies

This study has been completed in 2008. No additional studies are proposed.

### Task 2.4: Horticultural Techniques Data Entry and Analysis

This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

### Task 3: Experimental Evaluation of *Piperia yadonii* Regeneration Niche and Establishment Following Exotic Plant Removal

#### Question

What factors might influence establishment of *Piperia yadonii* from seed following exotic plant removal? In areas of apparently suitable but unoccupied habitat, does adding seed independently or in combination with litter removal promote establishment of *Piperia yadonii*?

#### Background

In spring 2006, EcoSystems established a small-scale manipulative experiment to evaluate the independent and interactive effects of factors hypothesized to influence seedling establishment following removal of three (3) types of exotic plants most commonly observed in or adjacent to habitat occupied by *Piperia yadonii*: 1) French broom, 2) *Acacia* species (there are more than one in the DMF/PDP areas), and 3) rattlesnake grass. This experiment also included litter removal and seed addition treatments designed to examine the independent and interactive effects of removing litter and adding the seed of *Piperia yadonii* to establish populations of the rare plant in exotic plant treatment areas, as well as areas of apparently suitable but unoccupied habitat. In 2007, additional litter removal and seed addition plots were added to the ten (10) experimental blocks located within suitable but unoccupied habitat, allowing examination of the effects of inter-annual variability in weather on *Piperia yadonii* establishment.

EcoSystems proposes the following steps to evaluate the effects of these experimental treatments to inform design of enhancement treatments, as well as management of *Piperia yadonii* habitat.

**3.1 Monitor Vegetative Plant Status:** In the spring of 2013 and 2014, EcoSystems will revisit each of the 176, 1 m<sup>2</sup> plots established in this experiment to measure the following:

- Number of vegetative *Piperia*: one (1) leaf, two (2) leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of ten (10) randomly chosen plants in each plot).

**3.2 Monitor Reproductive Plant Status:** In the summer of 2013 and 2014, EcoSystems will revisit the treatment plots that had vegetative *Piperia* in the spring to measure following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of ten (10) randomly chosen plants

**3.3 Analysis and Reporting:** This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 4: Examine Habitat Factors Influencing *Piperia yadonii* Performance

#### Question

What habitat factors influence the interannual variability in *Piperia yadonii* individual and population performance?

#### Background

The *Piperia yadonii* habitat characterization indicated that, within the DMF, *Piperia yadonii* occurs within a range of habitat conditions, in terms of plant community composition, soil conditions, and vegetation structure (EcoSystems West Consulting Group 2006). However, it is not currently known whether habitat conditions influence individual plant or patch performance, and thus population persistence. Indeed, there is little basic information available about the demographic rates for *Piperia yadonii*. This information can increase understanding of the biology of *Piperia yadonii* needed to inform habitat management and enhancement, as well as to evaluate their effectiveness.

**4.1 Examine Vegetative Plants:** The fifty-four (54) permanent *Piperia yadonii* sites established in the fourteen (14) DMF/PDP areas west of Highway 1 as part of the *Piperia yadonii* Habitat Characterization will be revisited during the spring of 2013 and 2014 to collect the following data:

- Number of vegetative *Piperia*: one (1) leaf, two (2) leaf, and total
- Mean longest leaf length (determined by measuring the longest leaf of ten (10) randomly chosen plants in each plot)
- Status of the five (5) target (marked) plants (aboveground vs. dormant, size if aboveground)

**4.2 Monitor Reproductive Plant Status:** In the summer of 2013 and 2014, EcoSystems will revisit the permanent plots to measure the following:

- Number of *Piperia* that initiated production of an inflorescence
- Number of *Piperia* that were browsed and/or diseased
- Mean reproduction (capsule production) of ten (10) randomly chosen plants
- Reproductive status of the five (5) target plants (whether flowered, browsed, diseased, and number of fruits produced)

**4.3 Data Analysis and Reporting:** This subtask will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 *Piperia* Studies summary report.

**Task 5: Establish Herbivory Effects of Experiment – Not applicable at this time.**

### Task 6: Coordinate AMT

As part of EcoSystems' work on this project, EcoSystems will coordinate and participate in the AMT that will review and guide implementation of these studies. In order to reduce costs associated with more frequent meetings, EcoSystems proposes that the AMT meet two (2) times via short one (1) hour teleconferences:

- May 2013 and 2014: Telephone conference call to discuss spring work
- November 2013 and 2014: Telephone conference call to discuss summer work

## EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### **Task 7: Project Management**

Project management will consist of short phone updates with County of Monterey (County) project staff and The Pebble Beach Company project staff. No formal progress reports will be prepared as a cost savings measure.

### **Task 8: Summary Reports of Piperia Studies**

This Task will be conducted following the completion of the 2015 field monitoring. At that time, all data will be entered into a database and statistically analyzed and summarized in the 2013 through 2015 Piperia Studies summary report.

EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

EcoSystems West Consulting Group  
 Table 1 - Cost Proposal to Conduct Determination of Habitat and Reproductive Requirements for Yadon's *Piperia*: 2013 Studies

2/13/2013

Expense Type	Personnel	Subtask 2.1	Subtask 2.2	Subtask 3.1	Subtask 3.2	Subtask 4.1	Subtask 4.2	Task 6	Task 7	Total	Rates	Total Cost
Technical	Project Manager (Bill Davilla)	2	2	2	2	4	4	4	16	36	\$125.00	\$4,500.00
	Lead Botanists (McGraw/J. Davilla)	8	8	16	16	96	68	4	8	224	\$99.50	\$22,288.00
Support	Word Processing/Report Productions/Graphics	10	10	18	18	100	72	8	24	260	\$70.00	\$0.00
Total Cost Labor		\$1,046	\$1,046	\$1,842	\$1,842	\$10,052	\$7,266	\$898	\$2,796			\$26,788.00
ODCs	Mileage (total miles all trips)	200	400	400	400	800	600	0	0	2800	\$0.565	\$1,582.00
	Per Diem (includes lodging and meals)	0	0	0	0	3	3	0	0	6	\$120.00	\$720.00
	Field Equip/Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$25.00
	Photocopy/Graphics Reproduction	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$50.00	\$0.00	\$50.00	\$0.00	\$50.00
Total ODCs		\$113	\$226	\$226	\$226	\$837	\$699	\$50	\$0	\$2,377		\$2,377.00
Total Cost by Subtask		\$1,159	\$1,272	\$2,068	\$2,068	\$10,889	\$7,965	\$948	\$2,796			\$29,165.00
Grand Total												

Task 2: Investigate Horticultural Techniques for *Piperia yadonii*  
 Subtask 2.1: Evaluate Tuber Storage  
 Subtask 2.2: Evaluate Success of Translocated *Piperia yadonii*  
 Task 3: Experimental Evaluation of *Piperia yadonii* Regeneration Niche and Establishment Following Exotic Plant Removal  
 Subtask 3.1: Monitor Vegetative Plant Status  
 Subtask 3.2: Monitor Reproductive Plant Status  
 Task 4: Examine Habitat Factors Influencing *P. yadonii* Performance  
 Subtask 4.1: Examine Vegetative Plants  
 Subtask 4.2: Monitor Reproductive Plant Status  
 Task 6: Coordinate AMT Meetings  
 Task 7: Project Management

EXHIBIT A - 3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

EcoSystems West Consulting Group  
 Table 2: Cost Proposal to Conduct Determination of Habitat and Reproductive Requirements for Yadon's Piperia: 2014 Studies

Expense Type	Personnel	Subtask 2.1	Subtask 2.2	Subtask 3.1	Subtask 3.2	Subtask 4.1	Subtask 4.2	Task 6	Task 7	Total	Rates	Total Cost
Technical	Project Manager (Bill Davilla)	2	2	2	2	4	4	4	16	36	\$125.00	\$4,500.00
	Lead Botanists (McChaw/J. Davilla)	8	8	16	16	96	68	4	8	224	\$99.50	\$22,288.00
Support	Word Processing/Report Production/Graphics	10	10	18	18	100	72	8	24	260	\$70.00	\$0.00
Total Hours		\$1,046	\$1,046	\$1,842	\$1,842	\$10,052	\$7,266	\$898	\$2,796			\$26,788.00
Total Cost Labor												
ODCs	Mileage (total miles all trips)	200	400	400	400	1000	800	0	0	3200	\$0.560	\$1,792.00
	Per Diem (includes lodging and meals)	0	0	0	0	0	0	0	0	0	\$120.00	\$0.00
	Field Equip/Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00	\$25.00		\$25.00
	Photocopy/Graphics Reproduction	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$50.00	\$0.00	\$50.00		\$50.00
Total ODC's		\$112	\$224	\$224	\$224	\$385	\$448	\$50	\$0	\$1,867		\$1,867.00
Total Cost by Subtask		\$1,158	\$1,270	\$2,066	\$2,066	\$10,637	\$7,714	\$948	\$2,796			\$28,655.00
Grand Total												

Task 2: Investigate Horticultural Techniques for Piperia yadonii  
 Subtask 2.1: Evaluate Tuber Storage  
 Subtask 2.2: Evaluate Success of Translocated Piperia yadonii  
 Task 3: Experimental Evaluation of Piperia yadonii Regeneration Niche and Establishment Following Exotic Plant Removal  
 Subtask 3.1: Monitor Vegetative Plant Status  
 Subtask 3.2: Monitor Reproductive Plant Status  
 Task 4: Habitat Factors Influencing P. yadonii Performance  
 Subtask 4.1: Examine Vegetative Plants  
 Subtask 4.2: Monitor Reproductive Plant Status  
 Task 6: Coordinate AMT Meetings  
 Task 7: Project Management

EXHIBIT A-3 – SCOPE OF SERVICES/PAYMENT PROVISIONS

PAYMENT PROVISIONS

Invoices for services performed under the AGREEMENT shall be submitted quarterly based upon a percentage of task completion and delivery of the final product and shall include the following:

1. Invoice Coversheet

EcoSystems West Consulting Group
2009-2014 Piperia Plan Studies and CEQA Review for The Pebble Beach Company's Del Monte Forest Preservation and Development Plan

Date: Invoice No.

Original Agreement Term: February 1, 2009 to April 30, 2010

Original Agreement Amount: \$ 24,999.00 (\$24,999.00 base budget plus \$0.00 project contingency)

Amendment No. 1: \$ 24,965.00 (\$24,965.00 base budget plus \$0.00 project contingency) Extension of Term to April 30, 2011

Amendment No. 2: Extension of Term to June 30, 2012

Amendment No. 3: \$ 64,165.00 (\$64,165.00 base budget plus \$0.00 project contingency)

Amendment No. 4: Extension of Term to June 30, 2013

Amendment No. 5: Extension of Term to June 30, 2015

Amendment No. 6: \$ 57,820.00 (\$57,820.00 base budget plus \$0.00 project contingency) Extension of Term to June 30, 2016

Total Agreement Amount: \$171,949.00 (\$171,949.00 base budget plus \$0.00 project contingency)

Prior Invoices: \$ (Under this Agreement)

This Invoice: \$

Remaining Balance \$

Approved as to Work/Payment: Joseph Sidor, Associate Planner Date

All Invoices Are To Be Sent To:

Diana Lemos, Account Clerk
County of Monterey Resource Management Agency
Planning Department
168 W. Alisal Street, 2nd Floor, Salinas, CA 93901
Telephone: (831) 755-5220

2. Invoice Detail

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

