



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 08-06-2009

SC 3000 0000000125

IMPORTANT

THE ABOVE NUMBER AND SHIP TO DEPARTMENT MUST
APPEAR ON ALL SHIPPING LABELS, PACKING SLIPS,
TRANSPORT DOCUMENTS, INVOICES AND CORRESPONDENCE

VENDOR
BIGGS CARDOSA ASSOCIATES

865 The Alameda

San Jose CA 95126-3133

S H P T O
PUBLIC WRK
168 W. ALISAL ST.,
2ND FLOOR
SALINAS CA 93901

B I L T O
PUBLIC WRK
168 W ALISAL ST
2ND FLOOR
SALINAS CA 93901

VENDOR NUMBER: CV000002852

DELIVERY DATE:

F.O.B.:

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	EXTENDED PRICE	
					UNIT PRICE	SALES TAX
				PURCH DESC: Professonal Services Agreement between Biggs Cardosa Associates, Inc. and the County of Monterey to provide project management, preliminary engineering and reports, and final design of the Peach Tree Road Bridge Replacement Project at Pancho Rico Creek, County No. 412, State Bridge No. 44C-0151 in an amount not to exceed \$245,589 for the term February 9, 2009 through December 31, 2010.		
1	0.0		91842	COMM LINE DESC: Eng Consulting	.00	.00
			002 - 3000 - 8195 - RMA012 - 6613 -		-	245,589.00

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL 245,589.00

All Vendors are required to review the Monterey County general terms and conditions which apply to all contracts, purchase orders, and other electronic procurements made with the County unless otherwise noted. Said terms and conditions can be found on the County website at http://www.co.monterey.ca.us/admin/terms_conditions.htm

TAX EXEMPTION INFORMATION:

FEDERAL EXCISE TAX EXEMPTION NUMBER 94-6000524

AUTHORIZED BY COUNTY OF MONTEREY
DEPUTIZED PURCHASING AGENT

Michael R. Te...

COUNTY BUYER INFORMATION

Debra Bayard

EMAIL: bayarddr@co.monterey.ca.us

TELEPHONE: (831)755-5673 x5673

PRINT DATE: 08/06/09

CONTRACTS/PURCHASING DIVISION
168 W. Alisal St. 3rd Floor, Salinas, CA 93901

PAGE NUMBER: 1 OF 1

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

Agreement No: A – 11433

- a. Approve a Professional Services Agreement with Biggs Cardosa Associates, Inc. to provide project management, preliminary engineering and reports, and final design for the Peach Tree Road Bridge Replacement (Co No. 412) at Pancho Rico Creek, Project No. 220165, Federal Aid Project No. STPLZ-5944 (041), in an amount not to exceed \$245,589 for a term through December 31, 2010; and
- b. Authorize the Contracts/Purchasing Officer to execute the Professional Services 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.

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

- a. Approved a Professional Services Agreement with Biggs Cardosa Associates, Inc. to provide project management, preliminary engineering and reports, and final design for the Peach Tree Road Bridge Replacement (Co No. 412) at Pancho Rico Creek, Project No. 220165, Federal Aid Project No. STPLZ-5944 (041), in an amount not to exceed \$245,589 for a term through December 31, 2010; and
- b. Authorized the Contracts/Purchasing Officer to execute the Professional Services 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.

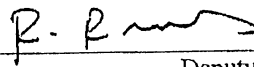
PASSED AND ADOPTED this 19th day of May, 2009, by the following vote, to wit:

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 May 19, 2009.

Dated: May 20, 2009

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

By 
 Deputy

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

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

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

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The services are generally described as follows:
Provide Project Management, Preliminary Engineering and Reports, and Final Design of the Peach Tree Road Bridge Replacement Project at Pancho Rico Creek, County No. 412, State Bridge No. 44C-0151
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 \$ 245,589.00.
3. **TERM OF AGREEMENT.** The term of this Agreement is from February 9, 2009 to December 31, 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 Federal Provisions

5. PERFORMANCE STANDARDS.

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

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

*Approved by County Board of Supervisors on _____.

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

6. PAYMENT CONDITIONS.

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

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

7. TERMINATION.

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

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

8. INDEMNIFICATION.

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

8.02 Indemnification for Design Professional Services Claims:

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

8.03 Indemnification for All Other Claims or Loss:

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

9.0 INSURANCE.

9.01 Evidence of Coverage:

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

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

9.02 Qualifying Insurers:

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

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

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

☐ Modification (Justification attached; subject to approval).

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

☐ Modification (Justification attached; subject to approval).

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

☐ Modification (Justification attached; subject to approval).

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

☐ Modification (Justification attached; subject to approval).

9.04 Other Insurance Requirements.

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

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

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

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

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

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

10. RECORDS AND CONFIDENTIALITY.

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

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

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

FOR COUNTY:	FOR CONTRACTOR:
Dalia Mariscal-Martinez, Management Analyst II	Anthony P. Notaro, Engineering Manager
Name and Title	Name and Title
County of Monterey, Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901	Biggs Cardosa Associates, Inc. 865 The Alameda San Jose, CA 95126-3133
Address	Address
(831) 755-8966	(831) 296-5515
Phone	Phone

15. **MISCELLANEOUS PROVISIONS.**

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

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

This space is left blank, intentionally.

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

COUNTY OF MONTEREY

By: _____

Purchasing Manager

Date: 7-22-09

By: _____

Department Head (if applicable)

Date: _____

By: _____

Board of Supervisors (if applicable)

Date: _____

Approved as to Form¹

By: Cynthia L. Alanson

County Counsel

Date: 2-12-09

Approved as to Fiscal Provisions²

By: [Signature]

Auditor/Controller

Date: 3-9-09

RISK MANAGEMENT
COUNTY OF MONTEREY

Approved as to Liability Provisions³

INSURANCE LANGUAGE

By: [Signature]

Risk Management

Date: 3-12-09

CONTRACTOR

Biggs Cardosa Associates, Inc.

Contractor's Business Name*

By: [Signature]

(Signature of Chair, President, or
Vice-President)*

STEPHEN A BIGGS PRESIDENT

Name and Title

Date: 3-5-09

By: [Signature]

(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)*

STEPHEN A BIGGS PRES. / TREAS.

Name and Title

Date: 3-5-09

ENTERED

JUL 20 2009

County Board of Supervisors' Agreement Number: KA

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

¹Approval by County Counsel is required for all Professional Service Agreements over \$100,000

²Approval by Auditor/Controller is required for all Professional Service Agreements

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

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

COUNTY OF MONTEREY

Peach Tree Road Bridge (Replacement) at Pancho Rico Creek

County Bridge No. 412

State Bridge No. 44C-0151

SCOPE OF WORK

The proposed two-lane bridge will replace an existing 53 year old, three span steel deck unit bridge over Pancho Rico Creek. The existing bridge, which is functionally obsolete and structurally deficient, carries one lane of traffic in each direction and has no shoulders. Temporary road closure or stage construction will be required to facilitate construction. The County has identified a temporary low water crossing site and detour path for the project.

The new bridge span is expected to consist of a precast prestressed concrete voided slab superstructure approximately 80-feet long. Precast construction is being proposed to avoid using falsework supports in the environmentally sensitive creek channel and to minimize the duration of road closure and temporary detour. It is expected that the new simple span bridge will be supported on cast-in-place short seat abutments with standard wingwalls. The new bridge will have a 25'-2" clear width made up of two 10'-7" lanes and two 2'-0" shoulders. Type 732 concrete bridge railings are proposed.

Biggs Cardosa Associates' approach for the Peach Tree Road Bridge Replacement Project is as follows:

SCOPE OF SERVICES

The following Tasks are included in our Scope of Services:

0	Project Management
Phase I:	Preliminary Engineering and Reports
Phase II:	Final Design
Phase III:	Construction

0. PROJECT MANAGEMENT

Project Management includes the supervision and scheduling of project staff, review of work prepared by staff and subconsultants, project coordination, client liaison and the monitoring of the schedule and the budget. Also included in this Task is the preparation of project reports and attendance at meetings with the staff of the County of Monterey to receive input and discuss and review the project during its critical design periods.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

0.1 Project Initiation

Upon receipt of notice to proceed, a project kick-off meeting will be held to finalize the project scope, the approach, the goals and the schedule. Items to be addressed include a review of the key issues associated with the project, a description and clarification of the approach required to respond to these issues, a discussion of potential County, State and Federal and other permits which may be required for the project and the verification of the project milestone dates. Based on information gathered at the project kick-off meeting, Biggs Cardosa Associates will provide the County with a detailed design schedule.

0.2 Coordination Meetings

To facilitate comprehensive input from the County during the critical design periods, the Consultant's Project Manager and selected Team Members will attend Coordination Meetings with the County staff members.

0.3 Design Review Meetings

The Consultant's Project Manager and selected Team Members will attend design review meetings with County staff which will be scheduled to coincide with the completion of the preliminary design, and final design phases.

1. PHASE I: PRELIMINARY ENGINEERING AND REPORTS

1.1 DATA COLLECTION

The County will research records and supply the Consultant with copies of pertinent documents, including any available record plans, street plans, utility plans or proposed improvements for review and incorporation into the project documents. The County will also provide available traffic data for the bridge.

1.2 GEOTECHNICAL INVESTIGATION (By Parikh Consultants)

Consultant will prepare an updated and finalized geotechnical investigation report which will provide recommendations including but not limited to the following:

- Foundation information including size, capacity and elevations.
- Earthquake design criteria, including foundation stiffness coefficients for modeling the bridge response to seismic forces.
- Lateral earth pressures on abutment and wing walls.
- Settlement considerations.
- Earthwork.
- Geogrid reinforcement requirements for embankments.
- "R" values for design of street structural section (if required).

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- Construction considerations such as de-watering and temporary slope inclination.
- Liquefaction potential.
- Soil corrosivity.

Bridge Foundation Report Scope:

- Consult with structural, hydrological and environmental designers regarding geogrid reinforcement for embankments.
- Discuss seismic considerations, evaluate the liquefaction potential and comment on the site soil conditions from this standpoint. Information related to Caltrans Seismic design criteria (SDC v 1.4) such as depth to rock like material, etc. shall be provided.
- Prepare Final Foundation Report: Prepare detailed report including design recommendations for foundation types and footing elevations, lateral design capacities, pile foundation recommendations.
- Using the general plan as a base map, we will provide log of test boring sheets.
- Design Review Consultation through final design.

Product: Final Foundation Report
 Log of Test Boring Plan Sheets

1.3 *FIELD SURVEYS AND BASE MAP TOPOGRAPHY (by Bestor Engineers)*

Consultant will prepare an updated field survey and topographic base map.

Updated topographic base mapping shall be provided in AutoCAD format for use in updating the Project drawings. Base mapping shall include the bridge site, adjacent approach roadways and the entire length of the County identified temporary low water crossing site and approaches. Information contained shall include planimetrics; indicating all surface visible physical features, 1-foot grade contours, edge of pavement, striped lane lines, trees, shrubs, fence lines, barriers, guard railing, manholes, pipe inverts, outfalls, top-of-bank, bottom-of-bank, waterline, creek center line, creek flow line, wing walls, pier walls, bridge abutments, upstream and downstream creek cross sections, roadway sections, all utility facilities and manmade features. Completed Base Map Topography shall be 3D AutoCAD Surface and will be provided. All features will be labeled and separated by layer for ease of use.

Product: Updated Field Survey and Topographic Map

1.4 *UTILITY MAP AND INVESTIGATION (by Rajappan and Meyer)*

Consultant will prepare and provide the County with an updated utility location map in AutoCAD electronic format. All known utility features will be labeled and separated by layer for ease of use. Utility facilities that require removal, relocation, adjustment or installation will be identified within the project limits by Consultant based upon this

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

information. It will be the responsibility of each utility owner to provide design of their facilities.

County shall coordinate utility facility owners with respect to relocations, removals, installations or adjustments. Any coordination necessary to construct the project will be the responsibility of the County. If roadway or bridge improvements have impacts to utility facilities, County shall be responsible for facility owner design and construction fees. County shall provide any pothole surveying and excavations necessary to carryout the design by Consultant.

Product: Utility Map

1.5 *PRELIMINARY RIGHT-OF-WAY (by Bestor Engineers); If Required*

Consultant will prepare an AutoCAD format drawing, illustrating existing public right-of-way record, parcel lines, easements, and street centerlines for use in developing the project drawings. The intent is to identify accurate requirements for property acquisition, dedication and/or utility easements and any temporary construction easements. The Consultant will provide services for the preliminary right-of-way acquisition. This will include property line research, surveys and monumentation, and preparation of a proposed right-of-way drawing to indicate required right-of-way areas for comparison to the existing right-of-way information.

The Consultant will prepare legal descriptions and exhibits for up to three (3) right-of-way acquisitions/construction easements for the County to use in acquisition negotiations. The Consultant will obtain the required title reports for the acquisitions/easements under consideration.

Product: Right-of-Way Acquisition/Construction Easement Legal Descriptions and Exhibits
 Right-of-Way Survey Monumentation

1.6 *HYDRAULICS REPORT (by Schaaf and Wheeler)*

The Consultant will prepare an updated location Hydraulics Study and Bridge Hydraulics Study Report, completed to Caltrans' requirements. An updated Preliminary Report will be submitted with the 35% design submittal. The Final Report will be submitted with the 95% submittal.

The hydraulics report update will include the following tasks:

- Investigate supplemental hydrology information from the County, USGS, and Corps of Engineers for flow rate estimates.
- Field visit to evaluate current channel, bridge and watershed conditions.
- Update channel cross sections based on current channel conditions, using updated cross sections from updated project surveys.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- Prepare revised preliminary hydraulics to establish design water surface elevations and flow velocities, for the bridge and low water crossing sites.
- Update estimates for long term scour, contraction scour and pier scour.
- Prepare revised draft bridge hydraulics study report and bridge location hydraulics report.
- Respond to review comments and prepare final bridge hydraulics report.
- Provide hydraulic information for construction plans and permit data.
- Prepare details for velocity protection measures if necessary.

The hydrology and hydraulics task will also include coordination with the project team and the County of Monterey Water Resources Agency.

Product: Updated Design Hydraulic Study Report
Updated Location Hydraulic Study

1.7 ENVIRONMENTAL DOCUMENTS

(By David J. Powers, H.T. Harvey and Basin Research Associates)

Task 1: Project Coordination

- DJP&A will undertake coordination between the design engineers, County, Caltrans, and subconsultants during the undertaking of the tasks necessary to comply with CEQA, NEPA, and environmental permitting.

Task 2: Revise Cultural Resources/Section 106 Reports

- Basin Research Associates will update the previous Historical Property Survey Report (HPSR) and Archeological Survey Report (ASR) to reflect the passage of time and the change in the project's area of potential effects (APE). This scope assumes that no historical or archeological resources will be located within the APE and no subsurface testing will be required.

Task 3: Revise Natural Environment Study

- HT Harvey & Associates will update the NES prepared in 1999 and subsequently revised in 2000. We propose to conduct a field survey and review of background information to determine whether the presence and/or distribution of biological or regulated resources have changed since 2000. Specifically, we will update the NES by evaluating any potential changes in jurisdictional habitats regulated by the U.S. Army Corps of Engineers (USACE) or the California Department of Fish and Game (CDFG); update our California Natural Diversity Database (CNDDB) records search for new information related to the occurrence of special-status species; identify any impacts to species that were not considered special-status species in 2000; update any impact assessments (if necessary) based on new information (such as amphibian dispersal capabilities) that has come to light since 2000; recommend any additional mitigation measures that are appropriate; and revise mitigation measures, if appropriate, based on recent changes in

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

mitigation approaches and policies. In the process, we will update the prior format of the NES to be consistent with current Caltrans standards and style guidelines issued in 2002, 2005, and 2006.

Assumptions

- Because of our prior work on this site, we anticipate that a reduced level of effort with another site visit will be necessary to update the prior NES. Please note we have included time for a botanist to update any potential changes in the acreage of jurisdictional habitats and a wildlife biologist to update potential changes in habitat for special status wildlife species. To minimize costs, we have assumed staff time and mileage would be minimal if site visits were conducted simultaneously with the Nacimiento Lake Drive Bridge (#449) NES. If the site visit for the Peachtree Road project must be conducted separately (e.g., due to differences in the schedules of these two projects), additional budget for fieldwork for this project will be required.

Task 4: Permits

- DJP&A will prepare applications, including pay fees on behalf of the County, for the following permits: CDFG, RWQCB, and ACOE.
- DJP&A will coordinate with these agencies in the processing of these permits.

1.8 35% SUBMITTAL; PRELIMINARY DESIGN AND TYPE SELECTION *(By Biggs Cardosa Associates)*

Upon completion of data gathering, investigation and analysis, an updated Preliminary Design Report and Type Selection will be prepared by Biggs Cardosa Associates. The Report shall summarize the findings and shall recommend the design and improvements for the project. Preliminary plans of all major features of the project shall be provided so that the County will have a clear understanding of the proposed improvements.

A preliminary cost estimate of the proposed improvements shall be provided by Biggs Cardosa Associates. The Preliminary Report shall state the property acquisition requirements for the bridge. A Type Selection meeting will be arranged if necessary.

35% Preliminary Plans: The Preliminary Design Phase is intended to allow the County, Caltrans, utility companies and other involved agencies to review and comment upon the basic design concepts early in the process. Plan development will be based upon the geometry developed in the Geometric Alignment Drawing Submittal. We will develop Preliminary Plans to establish fundamental elements of the design. The proposed plans for this preliminary submittal are as follows:

Title/Index Sheet
Typical Roadway Cross Sections
Preliminary Roadway Alignment Plans and Profiles
Preliminary Utility Plans
Striping and Signing Plans

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Bridge General Plan (Type Selection)

Bridge Foundation Plan

35% Preliminary Construction Cost Estimates: A Preliminary Construction Cost Estimate will be prepared based on items and quantities of work shown on the Preliminary Plans and other anticipated improvements. The opinion will be based upon current market unit costs, the magnitude of the quantities, our experience with similar local projects and the engineer's judgment.

Product: Plan Set Drawings (11" x 17" plots)
 35% Level Construction Cost Estimate
 Preliminary Reports and Studies noted above

2. PHASE II: FINAL DESIGN

CONSTRUCTION DOCUMENTS

Based on the approved Preliminary Design Report and Bridge Type Selection, Construction Documents will be prepared by Biggs Cardosa Associates team. The Construction Documents package will include specifications and construction plans and will conform to Monterey County's and Caltrans' Standards and Federal requirements. Final design calculations and a final construction cost estimate will also be prepared and submitted for County staff's review.

Biggs Cardosa Associates will coordinate and incorporate any utility agency's future needs, if any, in the bridge as directed by the County. The Consultant will design all channel transitions or alterations that may be required and will design all street transitions to the bridge.

Design Criteria:

Bridge Design: Final bridge design will be performed in accordance with Caltrans Bridge Design Specifications and other Caltrans Design Manuals. Design will be based on the "Load and Resistance Factor Design" method, with HL93 and permit truck design live loads. Seismic design will be performed in accordance with Caltrans Seismic Design Criteria (June 2006).

Approach Roadway Design: The final approach roadway design will be performed in accordance with County Standards, AASHTO "A Policy on Geometric Design of Highways and Streets", Caltrans Highway Design Manual, and Caltrans Standard Specifications. Final grading and drainage details will be developed as well as new/existing roadway conformance details, as required. Cross-sections will be developed at approximately 50-foot intervals.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Temporary low water crossing plans will be developed to facilitate temporary traffic handling and project staging. County has identified a temporary low water crossing site and detour.

Utility Relocation: The County will provide communication and coordination with the utility companies during the preliminary and final design process. We will coordinate the relocation and protection of the existing utilities for the project based on the information obtained from the County and various affected utilities. The Biggs Cardosa Associates team will also provide adequate openings for the utilities in the bridge. It will be the responsibility of each utility owner to provide a design of their facility.

Environmental: Environmental mitigation requirements will be included in the plans, specifications, and estimates. We have assumed only minor mitigation requirements will be needed for this project.

Bridge demolition, water pollution control measures, traffic detours, traffic handling plans, and project signing will be developed by the Biggs Cardosa Associates team, as well as bridge and roadway embankment protection (rock slope protection) details.

Plan Sheets and Details:

The plan sheets will be prepared in AutoCAD. Plans will be prepared in English units and will be consistent with Caltrans' Standard Plans. All plans will be signed by the civil engineer or structural engineer (registered in the state of California) in responsible charge of the design, in accordance with the Caltrans Local Programs Manual. Typically, the plans, specifications, and estimate (PS&E) will contain the following plan sheets for a simple span precast prestressed concrete voided slab structure (the number of sheets will vary depending on the site and the final structure details):

The proposed plan sheets for the construction documents are as follows:

- Title Sheet, Legend and Notes
- Clearing and Fencing Plan
- Typical Cross Sections
- Roadway Improvement Plans, Profile and Superelevation Diagram
- Utility and Drainage Plans and Profiles
- Construction Details
- Traffic Handling and Construction Area Signs
- Signing and Striping Plans
- Bridge General Plan
- Foundation Plan
- Abutment Layout
- Abutment Details
- Bridge Typical Section
- Precast Concrete Slab Details
- Log of Test Borings

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Three submittals will be made during the preparation of the Construction Documents as follows:

- When the documents are 65% complete;
- When the documents are 95% complete;
- When the final documents are complete.

Each submittal will incorporate the review comments from the previous submittal of the County staff as well as those of all other reviewing agencies.

2.1 *UNCHECKED DESIGN SUBMITTAL (65% PS&E); (By Biggs Cardosa Associates)*

65% Complete Plans

Based on comments received from the Preliminary Design Submittal, the design will be advanced to the point that all major design issues and solutions are represented in the plan documents. Minor details may be missing from the plan set at this milestone, but all plan sheets will be included in this submittal package. The Biggs Cardosa Associates team will work with the County and other agencies to resolve any remaining conflicts between the comments of different reviewers. Upon comment resolution with County, no further changes will be allowed thereafter and such comments or changes will be deferred until the next submittal or next appropriate meeting.

65% Complete Specifications

A draft of the technical specifications sections to be included in the final project specifications will be identified in this submittal. The technical specifications will reference County or Caltrans standard specifications sections for the various items of work, with specific consideration of measurement and payment provisions. The County will be responsible for the completion of “boilerplate” general and standard provisions related to the contract.

65% Construction Cost Estimate

The Preliminary Estimate of Construction Cost will be updated to reflect the design refinements indicated in the 65% Design Submittal.

Memorandum: Response to Comments

The Biggs Cardosa Associates team will prepare and submit a memo with “response to comments” received from the Preliminary Design Submittal.

65% Deliverables:

This task will consist of the following deliverables:

- 6 – Plan Set Drawings (11” x 17” plots)
- 6 – 65% Level Opinion of Probable Construction Cost (8 ½” x 11”)
- 6 – Unchecked Specifications (8 ½” x 11”)
- 6 – Response to 35% Comments Memo

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

2.2 CHECKED DESIGN SUBMITTAL (95% PS&E) (By Biggs Cardosa Associates)

95% Complete Design Plans

Checked Plans will be prepared and submitted to the County, the utility companies and other agencies for final review and comment. Agencies shall thoroughly review the details of the project. The design team will work with the County and other agencies to resolve any conflicts between the comments of different reviewers.

95% Complete Specifications

The technical specifications will be updated using County and Caltrans Standard Specifications. The County will incorporate them into “boilerplate” legal and contractual provisions of the contract Bid Documents.

95% Level Construction Cost Estimate

The Estimate of Construction Cost will be updated for use in the Bid Documents using standard County and/or Caltrans items.

Quality Assurance Review

An internal quality assurance review of the plans, specifications, and estimate will be conducted concurrently with review of the 65% Submittal by the County and other agencies. Biggs Cardosa Associates team’s quality assurance program provides for independent checking of individual tasks as well as an independent review by experienced senior staff. The purpose of this review is to provide oversight to specific project details by professionals who are not closely involved in the design, and to review the constructability, cost-effectiveness and completeness of design features relative to the normal standard of professional care.

Memorandum: Response to Comments

The Biggs Cardosa Associates team will prepare and submit a memo with “response to comments” received from the 65% Design Submittal.

95% Deliverables:

This task will consist of the following deliverables:

- 6 – Plan Set Drawings (11” x 17” plots)
- 6 – 95% Level Opinion of Probable Construction Costs (8 ½” x 11”)
- 6 – Specifications (8 ½” x 11”)
- 6 – Response to 65% Comments Memo

2.3 FINAL DESIGN SUBMITTAL (100% PS&E)

100% Final Plans

After agency review of the Checked Design Submittal (95%), we will prepare the Final Contract Documents in accordance with the County’s instructions, and provide the County and other agencies the opportunity to review the completed Bid Documents and direct *minor* revisions.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Memorandum: Response to Comments

The Biggs Cardosa Associates team will prepare and submit a memo with “response to comments” received from the 95% Design Submittal.

Bid Documents

After County review of the 100% Final Submittal, any *minor* final revisions will be incorporated and 6 sets of Completed Contract Documents will be prepared in accordance with the County’s instructions. Final bid documents will be submitted for signature.

100% Deliverables:

This task will consist of the following deliverables:

- 6 – Complete Bid Set Drawings – Signed and Dated (11” x 17” plots)
- 1 – CD archive of project electronic files

2.4 SCHEDULE (by Biggs Cardosa Associates)

35% Submittal – Preliminary Design and Type Selection:	Approximately 1 Month
County Review of 35% Submittal:	Approximately 2 Weeks
65% PS&E Submittal – Unchecked Design:	Approximately 5 Months
County Review of 65% Submittal:	Approximately 1 Month
95% PS&E Submittal – Checked Design:	Approximately 3 Months
County Review of 95% Submittal:	Approximately 1 Month
100% PS&E Submittal – Final Design:	Approximately 1 Month

Environmental Studies and Permits work to be performed concurrently with Design. Estimated schedule for Environmental Studies and Permits work is approximately 9 months.

2.5 RIGHT-OF-WAY ACQUISITION SERVICES (by Bestor Engineers); If Required

The Consultant will obtain and review title reports for the required acquisitions/easements. Based on the review of the title reports, the Consultant will perform additional surveys to determine existing property lines, as needed. This information will be shown on the Record of Survey map. Based on the location of existing property lines and easements, the Consultant will prepare a Record of Survey map to show the new rights-of-way and areas of existing rights-of-way. The Consultant will prepare legal descriptions the areas to be acquired and will set right-of-way monuments.

The County or its agent will make contact with the property owners for the purpose of acquiring property rights to accommodate construction.

Product: Record of Survey Maps
 Right-of-Way Acquisition Legal Description
 Right-of-Way Monumentation

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

2.6 BIDDING PERIOD SERVICES

During the bidding period, the Biggs Cardosa Associates team will answer any questions regarding the contract documents.

2.7 CONSTRUCTION SUPPORT PROPOSAL SUBMITTAL

The Biggs Cardosa Associates team will provide a fee proposal to provide construction support services after the 95% PS&E submittal.

3. PHASE III: CONSTRUCTION (not included in the fee proposal)

3.1 CONSTRUCTION SUPPORT

Upon approval by the County of the construction support proposal, the Biggs Cardosa Associates team will be available to interpret plans, revise designs, check and approve shop drawings and make site visits as required during construction. Biggs Cardosa Associates can also provide full construction engineering if required.

WORK NOT INCLUDED

This proposal does not include tasks identified as not included in the scope of work:

- Slope protection plans except as required to protect bridge foundations.
- Landscaping and street lighting design.
- Feasibility or planning studies for future channel flood control improvement.
- Design of temporary or permanent channel mitigation measures.
- Testing for hazardous materials.
- Handling and disposal of hazardous materials.
- Preparation of environmental mitigation plans if required by the environmental studies.
- Construction support

MATERIALS, INFORMATION AND DATA TO BE PROVIDED BY THE COUNTY

- Available pertinent information, data and reports of the surrounding area, such as adjacent project plans, reports, specifications, etc.

WORK PERFORMED BY THE COUNTY

The County will perform tasks as identified in the above scope of work and the following:

- Review and Comment on Design Submittals

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- Project Approval
- Preparation and execution of utility agreements
- PS&E Approval
- Construction Permitting
- Advertise for Bids
- Award of Construction Contract
- Advertising and bidding administration
- Process right of entry requests for surveying and subsurface exploration

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACT PRICING PROPOSAL			Peach Tree Road Bridge (Replacement) Design	
NAME OF OFFEROR Biggs Cardosa Associates				
OFFICE ADDRESS 865 The Alameda San Jose CA				
Dated 1/28/09				
DETAIL DESCRIPTION OF COST ELEMENTS				
1. DIRECT LABOR (SPECIFY)	ESTIMATED HOURS	RATE/ HOUR	ESTIMATED COST	
Principal in Charge	47	\$83.50	\$ 3,925	
Engineering Manager	173	\$52.96	\$ 9,162	
Senior Engineer	258	\$49.23	\$ 12,701	
Staff Engineer	302	\$32.09	\$ 9,691	
Senior CADD Drafter	101	\$39.87	\$ 4,027	
Secretarial	49	\$22.74	\$ 1,114	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
			\$ -	
TOTAL DIRECT LABOR	930			\$ 40,620
2. LABOR OVERHEAD	O.H. RATE	x BASE =	ESTIMATED COST	
Home Office OH	168.18%	40,620	\$ 68,315	
Project Office (Modified OH)		0	\$ -	
TOTAL LABOR OVERHEAD	=			\$ 68,315
			TOTAL DIRECT LABOR AND OVERHEAD	\$ 108,935
3. FIXED FEE 10.00%				\$ 10,894
4. SUBCONSULTANT COSTS (Attach Itemization - Exhibit A)				\$ 124,350
5. SUBCONSULTANT MARKUP (not to exceed 2%) 0.0%				\$ -
6. OTHER DIRECT COSTS (Attach Itemization- Exhibit B)				\$ 1,410
TOTAL ESTIMATED COST AND FEE				\$ 245,589

\$245,589


Signature of Authorized Representative

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EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

This proposal is submitted for use in connection with and in response to (Describe RFP, etc.)		
Peach Tree Road Bridge (Replacement) Design		
and reflects our best estimates as of this date, in accordance with the instructions to Offerors and the Footnotes which follows.		
TYPED NAME AND TITLE Mahvash Harms- Principal	SIGNATURE	
NAME OF FIRM Biggs Cardosa Associates	DATE OF SUBMISSION Dated 1/28/09	
EXHIBIT A - SUPPORTING SCHEDULE (Specify. If more space is needed, use reverse)		
COST ELEMENT NO.	ITEM DESCRIPTION	ESTIMATED COST (\$)
1	Bestor Engineers, Inc. (Survey, Right-of-Way)	\$23,073
2	David J. Powers & Associates (Environmental)	\$38,210
3	Parikh Consultants, Inc. (Geotechnical)	\$8,733
4	Rajappan & Meyer, Inc. (Roadway, Civil)	\$45,000
5	Schaaf & Wheeler, Inc. (Hydrology)	\$9,334
6	Geocon Consultants, Inc. (Hazardous Materials)	\$0
Total		\$124,350
<i>Note: The above costs may be shifted between categories.</i>		
EXHIBIT B - SUPPORTING SCHEDULE (Specify. If more space is needed, use reverse)		
COST ELEMENT NO.	ITEM DESCRIPTION	ESTIMATED COST (\$)
1	Plots	\$700
2	Reproduction	\$300
3	Delivery Services	\$300
4	Miscellaneous	\$110
Total		\$ 1,410.00
<i>Note: The above costs may be shifted between categories.</i>		

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

I. HAS ANY EXECUTIVE AGENCY OF THE UNITED STATES GOVERNMENT PERFORMED ANY REVIEW OF YOUR ACCOUNTS OR RECORDS IN CONNECTION WITH ANY OTHER GOVERNMENT PRIME CONTRACT OR SUBCONSULTANT WITHIN THE PAST TWELVE MONTHS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, identify)	
NAME AND ADDRESS OF REVIEWING OFFICE AND INDIVIDUAL	TELEPHONE NUMBER/EXTENSION
II. WILL YOU REQUIRE THE USE OF ANY GOVERNMENT PROPERTY IN THE PERFORMANCE OF THIS PROPOSED CONTRACT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, explain on reverse or separate page)	
III. DO YOU REQUIRE GOVERNMENT CONTRACT FINANCING TO PERFORM THIS PROPOSED CONTRACT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, identify) ADVANCE PAYMENTS <input type="checkbox"/> PROGRESS PAYMENTS <input type="checkbox"/> GUARANTEED LOANS <input type="checkbox"/>	
IV. DO YOU NOW HOLD ANY CONTRACT (Or, do you have any independently financed projects) FOR THE SAME OR SIMILAR WORK CALLED FOR BY THIS PROPOSED CONTRACT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If yes, identify) Peach Tree Road Bridge (Replacement) Design	
V. DOES THIS COST SUMMARY CONFORM WITH THE COST PRINCIPLES SET FORTH IN AGENCY REGULATIONS? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If no, explain on reverse or separate page)	
<div style="display: flex; justify-content: space-between;"> <i>See Reverse for Instructions and Footnotes</i> OPTIONAL FORM 60(10-71) </div>	

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EXHIBIT A- SCOPE OF SERVICES/PAYMENT PROVISIONS

										12/12/08
Peach Tree Road Bridge (Replacement) Design										
<i>Prepared for the County of Monterey</i>										
Estimated Work-Hour Breakdown: Biggs Cardosa Associates, Inc.										
Task	Rate	MMH	APN	JLH	SOD	SMH	YMM	Total Hours	Total BCA Dollars (unloaded)	Total BCA Dollars (loaded)
		Principal	Engineering Manager	Senior Engineer	Staff Engineer	Senior CAD Drafter	Secretarial			
		\$83.60	\$52.96	\$49.23	\$32.09	\$39.87	\$22.74			
Project Management and Administration		22	48	20	0	0	20	110	\$6,818	\$17,164
Project Management		8	16					24	\$1,516	
Project Administration		2					20	22	\$622	
County Coordination		4	8	4				16	\$955	
QA/QC		4	8					12	\$768	
Meetings		4	16	16				36	\$1,969	
PRELIMINARY DESIGN PHASE										
Type Selection, 35% Submittal - Preliminary Engineering		3	32	56	92	16	10	209	\$8,520	\$25,133
Type Selection		2	20	40	80	16	8	166	\$6,582	
Quantities			1	2	12			15	\$537	
Cost Estimate			1	2				3	\$151	
Update Type Selection Report		1	2	4			2	9	\$432	
Field Review			8	8				16	\$818	
FINAL DESIGN PHASE										
65% PS&E Submittal		3	37	70	124	52	9	295	\$11,913	\$35,144
Site Investigations			6	6				12	\$613	
Final Design Calculations			4	12	80			96	\$3,370	
Develop Plans		1	12	32	20	50		115	\$4,930	
Develop Specifications		1	12	6			8	27	\$1,196	
Quantities				8	16			24	\$907	
Cost Estimate			1	2	4			7	\$280	
Prepare Submittal Package		1	2	4	4	2	1	14	\$617	
95% PS&E Submittal		14	39	68	36	22	5	184	\$8,728	\$25,748
Quality Control Check (Red, Green and Yellow)		12	24	32				68	\$3,848	
Update Design Calculations			2	8	16			26	\$1,013	
Update Plans			4	16	8	20		48	\$2,054	
Develop Specifications		1	6	4			4	15	\$689	
Quantities				3	6			9	\$340	
Cost Estimate			1	1	2			4	\$166	
Prepare Submittal Package		1	2	4	4	2	1	14	\$617	
Final PS&E Submittal		1	8	18	12	10	3	52	\$2,245	\$6,624
Update Design Calculations			1	4	4			9	\$378	
Update Plans			2	8	4	8		22	\$947	
Develop Specifications			2	2			2	6	\$250	
Quantities			1	1	2			3	\$113	
Cost Estimate			1	1				2	\$102	
Prepare Submittal Package		1	2	2	2	2	1	10	\$455	
Bidding		4	9	26	38	1	2	80	\$3,395	\$10,016
Services During Bidding		4	9	26	38	1	2	80	\$3,395	
CONSTRUCTION PHASE, Not in Contract										
Construction Support		0	0	0	0	0	0	0	\$0	\$0
Respond to RFI's, emails and telephone requests								0	\$0	
Review submittals and shop drawings								0	\$0	
Meetings/site visits								0	\$0	
Plan Clarification								0	\$0	
TOTAL BIGGS CARDOSA ASSOCIATES DIRECT LABOR COST										
Direct Labor Cost										
Total BCA Hours		47	173	258	302	101	49	930		
Total BCA Direct Labor Cost		\$3,925	\$9,162	\$12,701	\$9,691	\$4,027	\$1,114	\$0	\$40,620	\$119,829

BCA

EXHIBIT A- SCOPE OF SERVICES/PAYMENT PROVISIONS

Peach Tree Road Bridge (Replacement) Design									
Prepared for the County of Monterey									
Estimated Work-Hour Breakdown: Biggs Cardosa Associates, Inc.									
A Biggs Cardosa Associates									
Total BCA Direct Labor Cost									\$40,620
Overhead (1.6818)									\$68,315
Project Escalation (10% per year) 1.5 year..									\$0
A. SUBTOTAL BIGGS CARDOSA ASSOCIATES (\$)									\$108,935
B Subconsultants									
Bestor Engineers, Inc. (Survey, Right-of-Way)									\$23,073
David J. Powers & Associates (Environmental)									\$38,210
Parikh Consultants, Inc. (Geotechnical)									\$8,733
Rajappan & Meyer, Inc. (Roadway, Civil)									\$45,000
Schaaf & Wheeler, Inc. (Hydrology)									\$9,334
B. SUBTOTAL SUBCONSULTANTS (\$)									\$124,350
C. Direct Costs									
Plots									\$700
Reproduction									\$300
Delivery Services									\$300
Miscellaneous									\$110
C. SUBTOTAL DIRECT COSTS (\$)									\$1,410
Totals									
Subtotal A									\$108,935
FIXED FEE (10.0%)									\$10,894
Subtotals B+C									\$125,760
TOTAL NOT TO EXCEED =									\$245,589
									\$245,589

1) Includes 0% mark-up on subconsultant services.



EXHIBIT A- SCOPE OF SERVICES/PAYMENT PROVISIONS

Schedule for Monterey County Nacimiento Lake Drive and Peach Tree Road Bridges

Thu 12/18/08

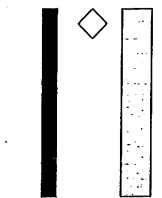
ID	Task Name	Duration	Start	Finish	2009	2010
1	PROJECT MANAGEMENT	280 days	Mon 02/09/09	Fri 03/05/10	Qtr 1	Qtr 2
2	Notice to Proceed	0 days	Mon 02/09/09	Mon 02/09/09	Qtr 1	Qtr 2
3	PHASE 1: PRELIMINARY ENGINEERING AND REPORTS	275 days	Mon 02/09/09	Fri 02/26/10	Qtr 1	Qtr 2
4	1.1 Data collection	15 days	Mon 02/09/09	Fri 02/27/09	Qtr 1	Qtr 2
5	1.2 Geotechnical Investigation	130 days	Mon 02/09/09	Fri 08/07/09	Qtr 1	Qtr 2
6	1.3 Hazardous Material Testing	130 days	Mon 02/09/09	Fri 08/07/09	Qtr 1	Qtr 2
7	1.4 Field Surveys and Base map Topography	130 days	Mon 02/09/09	Fri 08/07/09	Qtr 1	Qtr 2
8	1.5 Utility Map and Investigation	30 days	Mon 02/09/09	Fri 03/20/09	Qtr 1	Qtr 2
9	1.6 Preliminary Right-of-Way	60 days	Mon 02/09/09	Fri 05/01/09	Qtr 1	Qtr 2
10	1.7 Hydraulics Report	60 days	Mon 03/23/09	Fri 06/12/09	Qtr 1	Qtr 2
11	1.8 Environmental Documents and permits	60 days	Mon 02/09/09	Fri 05/01/09	Qtr 1	Qtr 2
12	1.9 35% Submittal; Preliminary Design & Type Selection Reports	260 days	Mon 03/02/09	Fri 02/26/10	Qtr 1	Qtr 2
13	PHASE 2: FINAL DESIGN & CONSTRUCTION DOCUMENTS	30 days	Mon 02/09/09	Fri 03/20/09	Qtr 1	Qtr 2
14	2.1 Unchecked Design Submittal (65%)	250 days	Mon 03/23/09	Fri 03/05/10	Qtr 1	Qtr 2
15	Prepare 65% PS&E	120 days	Mon 04/13/09	Fri 09/25/09	Qtr 1	Qtr 2
16	County/Calttrans Review of 65%	100 days	Mon 04/13/09	Fri 08/28/09	Qtr 1	Qtr 2
17	2.2 Checked Design Submittal (95% PS&E)	20 days	Mon 08/31/09	Fri 09/25/09	Qtr 1	Qtr 2
18	Check of 65% PS&E	80 days	Mon 09/28/09	Fri 01/15/10	Qtr 1	Qtr 2
19	Prepare 95% PS&E Submittal	25 days	Mon 09/28/09	Fri 10/30/09	Qtr 1	Qtr 2
20	County/Calttrans Review of 95%	45 days	Mon 11/02/09	Fri 01/01/10	Qtr 1	Qtr 2
21	2.3 Final Design Submittal (100% PS&E)	10 days	Mon 01/04/10	Fri 01/15/10	Qtr 1	Qtr 2
22	Prepare 100% PS&E	35 days	Mon 01/18/10	Fri 03/05/10	Qtr 1	Qtr 2
23	County/Calttrans Approval of 100%	25 days	Mon 01/18/10	Fri 02/19/10	Qtr 1	Qtr 2
24	2.4 Right-of-Way Acquisition Services	10 days	Mon 02/22/10	Fri 03/05/10	Qtr 1	Qtr 2
25	PHASE 3: BIDDING	200 days	Mon 03/23/09	Fri 12/25/09	Qtr 1	Qtr 2
26	3.1 Start Bidding Period Services	0 days	Fri 03/05/10	Fri 03/05/10	Qtr 1	Qtr 2



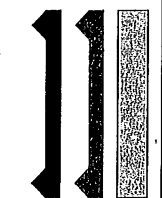
Task
Progress
Milestone
Summary



External Tasks
Project Summary
Group By Summary



External Tasks
Project Summary
Group By Summary



External Tasks
Project Summary
Group By Summary



EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Biggs Cardoso Associates, Inc.
County of Monterey
Rate Schedule

Category	*Fully Loaded Rate Effective 10/01/2008
Principal II	\$238.00
Associate	\$168.00
Engineering Manager	\$155.00
Senior Engineer	\$133.00
Project Engineer	\$114.00
Staff Engineer	\$102.00
Assistant Engineer	\$89.00
Junior Engineer	\$79.00
Sr. Computer Drafter	\$103.00
Project Admin.	\$126.00
Administration	\$65.00
* The above fully loaded rates include the following:	
Overhead Multiplier	168.18%
Fee	10%

N:2007/2007215/Fully Loaded Rates Effective 2008-10-01

EXHIBIT B - FEDERAL PROVISIONS

FEDERAL PROVISIONS CALTRANS LOCAL ASSISTANCE PROCEDURES MANUAL

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. The method of payment for this contract will be based on actual cost-plus-a fixed fee. The *COUNTY* will reimburse the CONTRACTOR for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by the CONTRACTOR in performance of the work. The CONTRACTOR will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONTRACTOR'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will the CONTRACTOR be reimbursed for overhead costs at a rate that exceeds the *COUNTY'S* approved overhead rate set forth in the Cost Proposal. In the event that the *COUNTY* determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time and/or actual costs reimbursable by the *COUNTY* shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.
- B. In addition to the allowable incurred costs, the *COUNTY* will pay the CONTRACTOR a fixed fee of \$10,894.00. The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.
- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- D. When milestone cost estimates are included in the approved Cost Proposal, the CONTRACTOR shall obtain prior written approval for a revised milestone cost estimate from the Contract Manager before exceeding such cost estimate.
- E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of the CONTRACTOR'S fixed fee will be included in the monthly progress payment. If CONTRACTOR fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, the *COUNTY* shall have the right to delay payment and/or terminate this Agreement in accordance with the provisions of Article VI Termination.
- F. No payment will be made prior to approval of any work, nor for any work performed prior to the approval of this contract.
- G. The CONTRACTOR will be reimbursed, as promptly as fiscal procedures will permit upon receipt by the *COUNTY'S* Contract Manager of itemized invoices in triplicate. Invoices shall be submitted no later than 45 – calendar days after the performance of work for which the CONTRACTOR is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain

EXHIBIT B - FEDERAL PROVISIONS

the final cost and all credits due the *COUNTY* including any equipment purchased under the provisions of Article XVI Equipment Purchase of this contract. The final invoice should be submitted within 60 – calendar days after completion of the CONTRACTOR'S work. Invoices shall be mailed to the *COUNTY'S* Contract Manager at the following address:

County of Monterey
Resource Management Agency
Department of Public Works
168 West Alisal Street, 2nd Floor
Salinas, CA 93901
Attn: Finance Division

- H. The total amount payable by the *COUNTY* including the fixed fee shall not exceed **\$245,589.00.**
- I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by the *COUNTY'S* Contract Manager.

For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases which are the direct result of changes in the prevailing wage rates are reimbursable.

- J. All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE VI TERMINATION

The *COUNTY* reserves the right to terminate this contract upon thirty (30) calendar days written notice to the CONTRACTOR with the reasons for termination stated in the notice.

ARTICLE X COST PRINCIPLES

- A. The CONTRACTOR agrees that the Contract Cost Principals and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.
- B. The CONTRACTOR also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONTRACTOR that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONTRACTOR to the *COUNTY*.

ARTICLE XII RETENTION OF RECORDS

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; the

EXHIBIT B - FEDERAL PROVISIONS

CONTRACTOR , subcontractors, and the COUNTY shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, the State Auditor, the COUNTY, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the CONTRACTOR that are pertinent to the contract for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

Subcontracts in excess of \$25,000 shall contain this provision.

ARTICLE XV SUBCONTRACTING

- A. The CONTRACTOR shall perform the work contemplated with resources available within its own organization; and no portion of the work pertinent to this contract shall be subcontracted without written authorization by the COUNTY's Contract Manager, except that, which is expressly identified in the approved Cost Proposal.
- B. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all the provisions stipulated in this contract to be applicable to subcontractors.

Any substitution of subcontractors must be approved in writing by the COUNTY's Contract Manger.

ARTICLE XVI EQUIPMENT PURCHASE

- A. Prior authorization in writing by the *COUNTY'S* Contract Manager shall be required before the CONTRACTOR enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONTRACTOR services. The CONTRACTOR shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in the CONTRACTOR'S Cost Proposal and exceeding \$5,000 prior authorization by the *COUNTY'S* Contract Manager; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following: "The CONTRACTOR shall maintain an inventory of all non-expendable property. Non-expendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the *COUNTY* shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, the CONTRACTOR may either keep the equipment and credit the *COUNTY* in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established *COUNTY* procedures; and credit the *COUNTY* in an amount equal to the sales price. If the CONTRACTOR elects to keep the equipment, fair market value shall be determined at the CONTRACTOR'S expense, on the basis of a competent, independent appraisal of such equipment. Appraisals shall be

EXHIBIT B - FEDERAL PROVISIONS

obtained from an appraiser mutually agreeable to by the *COUNTY* and the CONTRACTOR, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the *COUNTY*."

- D. All subcontracts in excess \$25,000 shall contain the same provisions.

ARTICLE XVII INSPECTION OF WORK

The CONTRACTOR and any subcontractors shall permit the *COUNTY*, the State and the FHWA, if Federal participating funds are used in this contract, to review and inspect the project activities at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

ARTICLE XVIII SAFETY

- A. The CONTRACTOR shall comply with OSHA regulations applicable to CONTRACTOR regarding necessary safety equipment or procedures. The CONTRACTOR shall comply with safety instructions issued by the *COUNTY* Safety Officer and other *COUNTY* representatives. CONTRACTOR personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Section 591 of the Vehicle Code, the *COUNTY* has determined that within such areas as are within the limits of the project and are open to public traffic, the CONTRACTOR shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. The CONTRACTOR shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. Any subcontract, entered into as a result of this contract, shall contain all of the provisions of this Article.

ARTICLE XXVII STATE PREVAILING WAGE RATES

- A. The CONTRACTOR shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1775; and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair or maintenance of public works, shall contain all of the provisions of this Article.

ARTICLE XXX PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING

- A. The CONTRACTOR certifies, to the best of his or her knowledge and belief, that:

EXHIBIT B - FEDERAL PROVISIONS

1. No State, Federal or Local Agency appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal contract, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. The CONTRACTOR also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

EXHIBIT B – FEDERAL PROVISIONS



Local Programs Procedures

LPP 06-02 Manual Update

Subject: **Consultant Selection (Disadvantaged Business Enterprise (DBE) Race-Neutral Program Implementation)**

Reference: *Local Assistance Procedures Manual (LAPM)*, Chapter 10, "Consultant Selection"

Effective Date: May 1, 2006

Approved: Original Signed By
TERRY L. ABBOTT, Chief
Division of Local Assistance

WHAT IS AN LPP?

LPPs are Local Programs Procedures. These documents are used for the rapid deployment of new procedures and policies on updates of Local Assistance manual, guidelines and programs. They are numbered according to calendar year and order in which released. This is the second LPP issued in 2006; hence, it is LPP 06-02

PURPOSE

Effective immediately, Caltrans implemented a race-neutral Disadvantaged Business Enterprise (DBE) Program, as announced by the Director's letter to FHWA and FTA dated May 1, 2006. All local agency consultant contracts executed after May 1, 2006 shall have race-neutral provisions in order to be eligible for federal-aid funds. Attached in its entirety, Chapter 10 of the *Local Assistance Procedures Manual (LAPM)* has been issued to reflect these new requirements. Chapter 10 now reflects changes that will provide local agencies with additional tools and information for the preparation of consultant contracts. New exhibits have also been added and other minor administrative changes have also been made.

PREVIOUS PROCEDURES

Previously, Chapter 10 *Consultant Selection* of the LAPM did not include Disadvantaged Business Enterprises (DBE) forms and other forms such as *Nonlobbying Certifications for Federal-Contracts* and *Disclosure of Lobbying Activities*, which are to be included in consultant contracts. In addition, California prevailing wages for certain crafts were not mentioned in the

EXHIBIT B – FEDERAL PROVISIONS

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Consultant Selection (Disadvantaged Business Enterprise (DBE) Race-Neutral Program Implementation)

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consultant contract. No minimum threshold was required for the preparation of an independent cost estimate for a consultant contract. Although it mentioned an evaluation of the consultant at completion of the contract, no sample *Consultant Performance Evaluation* form was included for use by a local agency.

NEW PROCEDURES

Under the revised Chapter 10 *Consultant Selection*, DBE forms are included to be used during the pre-award phase of the consultant contract. *Nonlobbying Certifications for Federal-Contracts* and *Disclosure of Lobbying Activities* are included for use in federal-aid consultant contracts. California prevailing wages for certain crafts are included to be used in applicable consultant contracts. Consultant contracts that exceed \$100,000 are required to prepare an independent cost estimate. Likewise, *A&E Sample Contract Language* has been included in this chapter. To further assist the local agency in evaluating the consultant's performance, a sample *Consultant Performance Evaluation* form has been included.



USER-FRIENDLY FEATURES

- These new procedures are incorporated in the electronic version of the LAPM that is available at the Division of Local Assistance Home page on the Internet at: <http://www.dot.ca.gov/hq/LocalPrograms/>. Once there, click on "Publications" and then click on "*Local Assistance Program Manual*". You may also purchase a Compact Disc (CD), titled "*Publications for Local Assistance CD*" which acts as a one-stop shop for information and promotes flexible access to helpful information for local project delivery. Additional information about this product and on how to obtain it is located on the internet at: <http://www.dot.ca.gov/hq/LocalPrograms/lam/LApubsCD.htm>
- Additional user-friendly features were developed to make the manual easier to edit and to access on the DLA website. The added features will allow the users to navigate more quickly through the manual. Chapter formatting has been changed to enhance user-friendliness and reduce overall document size. Internal bookmarks allow for direct access to chapters and subheadings from the table of contents. Right justification has been eliminated, resulting in tighter text, more compact paragraphs and an overall reduced chapter size.
- To receive an electronic notification when new information is posted on the DLA Website, please subscribe to the DLA list server at: <http://www.dot.ca.gov/hq/LocalPrograms/sub.htm>

EXHIBIT B – FEDERAL PROVISIONS

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Consultant Selection (Disadvantaged Business Enterprise (DBE) Race-Neutral Program Implementation)

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- Comments and suggestions for improvements to the manual or the processes and procedures are welcome. They may be submitted to:

Department of Transportation
Division of Local Assistance, MS 1
Attention: **Cathy Felkins**
P.O. Box 942874
Sacramento, CA 94274-0001
FAX (916) 654-2409
Cathy_Felkins@dot.ca.gov

SUMMARY OF CHANGES

LAPM Item	Change
Chapter 10 Table of Contents	Updated the Table of Contents to reflect the changes made. Replaced race-conscious “DBE goal” terminology with race-neutral “DBE Availability Advisories” terminology throughout the chapter.
Section 10.1 (General) pages 10-1 thru 4	<p>Under <i>Federal Legislation</i>, added list of required provisions for federal-aid Consultant Contract.</p> <p>Under <i>State Legislation</i> reminded local agencies that cost might not be one of the rating criteria for A&E consultants. Added the link to: http://www.dot.ca.gov/hq/construc/A&E_Guidelines/A&EGuidelines.pdf</p> <p>This section pointed out that California Prevailing Wages might be required on an A&E Consultant contract.</p> <p>The section <i>Selecting the Project</i> was moved next to <i>State Legislation</i>.</p> <p>Made revisions to the <i>Pre-Award Audit</i> section.</p> <p>Under <i>Caltrans Performs Pre-Award Audit</i>, reference to <i>Section 4.3 of the Caltrans Service Contracts Manual</i>...was included to provide additional details on audit process.</p> <p>Made revisions to the section <i>Local Agency (Or Hired Certified Public Accountant) Performs Pre-Award Audit</i>.</p> <p>Under <i>Authorization To Proceed</i>, reference to Chapter 23, <i>Local Agency State Transportation Improvement Program Projects</i> of the LAPG was added.</p>

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Consultant Selection (Disadvantaged Business Enterprise (DBE) Race-Neutral Program Implementation)

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LAPM Item	Change
Section 10.2 (Identifying & Defining A Need For Consultants)) pages 10-5 thru 9	<p>A second paragraph was added to section <i>Identifying & Defining A Need For Consultants</i>.</p> <p>The section <i>Appointing The Contract Administrator</i> was revised.</p> <p>Arranged in bullets the project schedule, redefined the scope of work of a Consultant, and added reference to 49 CFR Part 26 provisions, which required for local agency receiving federal-aid funds to adopt a DBE program and annual goal.</p> <p>Under <i>Estimate Cost of Consultant Work</i>, added in the first sentence of the paragraph...(required for contracts over \$100,000)....and pointed out that consultant services must be clearly identified in the solicitation of consultant services and must be included in the cost estimate.</p> <p>Under <i>Determine Type of Contract</i>, the four types of contracts permitted on the scope of services to be performed were further clarified.</p>
Section 10.3 (Consultant Selection Methods) pages 10-10 thru 13	<p>Revised the following headings in the section:</p> <ul style="list-style-type: none">• <i>One-Step RFP (Request for Proposal, Followed by Interviews and Negotiation)</i>• <i>One-Step RFQ (Request for Qualifications, Followed by Interviews and Negotiation)</i>• <i>Two-step RFQ/RFP (Request for Qualifications, Followed by request for Proposal and Negotiation)</i>• <i>Noncompetitive Negotiated Agreements</i>• <i>Agreement Costing Less Than \$100,000</i> <p>Added a subheading <i>Personal Services Contracts</i> to explain the employer-employee relationship and the services provided under personal services contract</p> <p>Revised the Flow Chart 10-1 <i>Selecting Consultants</i>.</p>

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Consultant Selection (Disadvantaged Business Enterprise (DBE) Race-Neutral Program Implementation)

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LAPM Item	Change
Section 10.4 (Consultant Selection Using the One-Step RFP Method) pages 10-14 thru 16	<p>Revised the first paragraph under section <i>Consultant Selection Using the One-Step RFP Method</i>.</p> <p>Revised the section <i>Appoint Consultant Selection Committee</i> and pointed out the process.</p> <p>Added a sixth bullet: <i>Whether or not a DBE goal is specified if a federal-aid contract</i> as one of the requirements in an RFP.</p> <p>In the following set of bullets, included in the third bullet ...<i>deadlines</i> under items typically required in a technical proposal. Additional bullet on <i>References</i> was included.</p> <p>Revised the heading, <i>Receive and Evaluate Technical Proposals And Statements of Qualifications</i> to <i>Receive and Evaluate Technical Proposals</i>.</p> <p>Under <i>Develop Final Ranking and Notify Consultants of Results</i>, added paragraphs addressing debriefing of consultants and not using this process to establish a pre-qualified list.</p> <p>Discussed further independent cost and pre-award audit. <i>Negotiate Contract with Top-Ranked Consultant</i> and added “deadlines” on the second bulleted item.</p>
Section 10.5 (Consultant Selection Using the One-Step RFQ Method) pages 10-17 thru 20	<p>Under the heading <i>Appoint Consultant Selection Committee</i>, pointed out that familiarity by members of the committee with the project/segment to be contracted out and with the local agency standards that will be used in the contract would be helpful.</p> <p>Revised the paragraph under <i>Develop Schedule For Consultant Selection</i> requiring Contract Administrator to confirm dates with all the selection committee members.</p> <p>Added a new heading, <i>Prepare Request For Qualifications (RFQ)</i></p> <p>Under <i>Advertise For Consultants</i>, added third paragraph specifying the content of proposal.</p> <p>Under <i>Notify Consultants of Shortlist</i>, added second paragraph addressing debriefing of unsuccessful consultants.</p>

EXHIBIT B – FEDERAL PROVISIONS

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Consultant Selection (Disadvantaged Business Enterprise (DBE) Race-Neutral Program Implementation)

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LAPM Item	Change
Cont. Section 10.5 (Consultant Selection Using the One-Step RFQ Method) pages 10-17 thru 20	<p>Under <i>Interview Top-Ranked Consultants</i>, added paragraphs, to discuss consultant questions and local agency answers to be in writing and to be provided to all remaining consultants as well as for local agency to check the consultants' references.</p> <p>Provided additional "debriefing" details under <i>Develop Final Ranking and Notify Consultants of Results</i>.</p> <p>Additional "cost proposal" details under paragraph entitled <i>Request Cost Proposal</i> were included.</p> <p>Under <i>Negotiate Contract With Top-Ranked Consultant</i> further explained negotiation contract process</p>
Section 10.6 (Consultant Selection Using the Two-Step RFQ/RFP Method) page 10-21	<p>Revised the first paragraph and added fourth paragraph to this section.</p>
Section 10-7 (Completing The Project) page 10-21 thru 25	<p>Under <i>Develop The Final Contract</i>, added reference to Exhibit 10-S, <i>A&E Sample Contract Language</i>.</p> <p>Added the following new headings</p> <ul style="list-style-type: none">• Review and Approval of Agreements• Retention Clauses• Substitution of Consultant Personnel and Subcontractors• Invoicing (Or Progress Payment)• Contract Amendments (Supplemental Agreements) <p>Revised first paragraph under <i>Review of Local Agency Actions</i>.</p> <p>Made revisions to <i>Close out Projects</i>.</p> <p>Under <i>Performance Evaluation</i>, added Exhibit 10-T, <i>Sample of Consultant Performance Evaluation</i> form.</p>

EXHIBIT B – FEDERAL PROVISIONS

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Consultant Selection (Disadvantaged Business Enterprise (DBE) Race-Neutral Program Implementation)

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Section 10-8 (Miscellaneous Considerations) page 10-25, 26	<p>Deleted the following headings in this section:</p> <ul style="list-style-type: none">• Review and Approval of Agreements• Supplemental Agreements• Engineering Services Under \$25,000• Retention Clauses <p><i>Changes made under the heading title Retaining A Consultant As City Or County Engineer:</i></p> <ul style="list-style-type: none">• Changed heading title to <i>Retaining A Consultant As An Agency Engineer</i>.• Added in the last sentence of the first paragraph, ...and /state....• Changed the third bulleted item to: <i>Written designation as Agency Engineers</i>• Deleted the last paragraph.
Section 10.9 (References) page 10-26	Updated the list of references.
Exhibits 10-O thru 10-S pages 10-73 thru 98	<p>The following new exhibits were added to this chapter:</p> <ul style="list-style-type: none">• Exhibit 10-O <i>Local Agency Consultant-DBE (Consultant Contract Information</i>• Exhibit 10-P <i>Nonlobbying Certifications for Federal-Aid Contracts</i>• Exhibit 10-Q <i>Disclosure of Lobbying Activities</i>• Exhibit 10-R <i>A&E Sample Contract Language</i>• Exhibit 10-S <i>Consultant Performance Evaluation</i>
Exhibits 10-B page 10-29	<p>Suggested Evaluation Sheet--Revised the criteria, “<i>Demonstrated DBE Intent</i>” with “<i>Demonstrated Technical Ability</i>” DBE is not to be used as a weighted criteria in selecting a consultant. If a DBE goal is specified in the consultant solicitation, the perspective consultant to be responsive must either meet the DBE goal or have made a Good Faith Effort to meet the DBE goal.</p> <p>Added in the asterisk <i>Disadvantaged Business (DBE) participation by the consultant shall not be used as one of the criteria listed above.</i></p>

EXHIBIT B – FEDERAL PROVISIONS

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Consultant Selection (Disadvantaged Business Enterprise (DBE) Race-Neutral Program Implementation)

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Exhibit 10-C page 10-32, 33	Consultant Agreement Reviewers Checklist – No. II list no.5.letter r) changed exhibit title. Added <i>Distribution</i> on the last page of this exhibit.
Exhibit 10-D page 10-35	Consultant Agreement Outline --Made other minor revisions in the exhibit.
Exhibits 10-I and 10-J pages 10-49 to 10-57	Notice to Bidders/Proposers Disadvantaged Business Enterprise Information (10-I) and Standard Agreement for Subcontractor/ DBE Participation (10-J) - -Removed race-conscious DBE provisions and replaced with race-neutral DBE provisions in both Exhibit 10-I and Exhibit 10-J. Changed formats of both exhibits to correspond to the formats being used by Caltrans.
Exhibits 10-K page 10-59	Audit Disposition -- Added <i>Distribution</i> on the last page of this exhibit.

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POLICY NUMBER: 6804868L386

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 3/3/2009

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

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

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S): The County of Monterey, its agents, officers and employees

PROJECT/LOCATION OF COVERED OPERATIONS: All Operations of the Named Insured

PROVISIONS

A. The following is added to WHO IS AN INSURED (Section II):

The person or organization shown in the Schedule above is an additional insured on this Coverage Part, but only with respect to liability for bodily injury, "property damage" or "personal 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 premises owned by or rented to you; or
- c. In connection with your work and included within the "products-completed operations hazard."

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

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

- d. This insurance does not apply to the rendering of or failure to render any "professional services".
 - e. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF INSURANCE (Section III) for this Coverage Part.
- B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):
However, if you specifically agree in a contract or agreement requiring insurance that, for the additional insured shown in the Schedule, the insurance provided to that additional insured under this

COMMERICAL GENERAL LIABILITY

Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance" for such additional insured. But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when the additional insured is also an additional insured under any other insurance.

- C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against the additional insured shown in the Schedule above because of payments we make for "bodily injury", "property damage" or "personal

injury" arising out of "your work" on or for the project, or at the location, shown in the Schedule above, performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that additional insured. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with that additional insured entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

- D. The following definition is added to DEFINITIONS (Section V):

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include the person or organization shown in the Schedule as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

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

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective 03/03/09	
Named Insured Biggs Cardoso Associates, Inc.	

SCHEDULE

Name of Person(s) or Organization(s):

County of Monterey
Contracts/Purchasing Department
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Ref: All Operations. The County of
Monterey, its agents, officers and
employees are Additional Insured.

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

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who is An Insured Provision contained in Section II of the Coverage Form

Named Insured: Biggs Carosa Associates, Inc.
Policy Number: BA4955L513

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

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

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident", provided that the "accident" arises out of operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.



Named Insured: Biggs Cardosa Associates, Inc.
Policy Number: BA4955L513

COMMERCIAL AUTO

charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee - Physical Damage Coverages

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

5. Other Insurance

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

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

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

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

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

6. Premium Audit

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

for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

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

7. Policy Period, Coverage Territory

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

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

The coverage territory is:

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

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

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

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

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

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

BUSINESS AUTO COVERAGE FORM

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

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

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

SECTION I – COVERED AUTOS

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

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols
1 Any "Auto"	
2 Owned "Autos" Only	Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
3 Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4 Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5 Owned "Autos" Subject To No-Fault	Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.
6 Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7 Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8 Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent, or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9 Nonowned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households but only while used in your business or your personal affairs.
19 Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.

B. Owned Autos You Acquire After The Policy Begins

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

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

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

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

SECTION II - LIABILITY COVERAGE

A. Coverage

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

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However,

we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

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

1. Who Is An Insured

The following are "insureds":

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

(1) The owner or anyone else from whom you hire or borrow a covered "auto". This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

(2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.

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

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

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

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

2. Coverage Extensions**a. Supplementary Payments**

We will pay for the "insured":

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

These payments will not reduce the Limit of Insurance.

b. Out-Of-State Coverage Extensions

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

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

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

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

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

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

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

3. Workers' Compensation

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

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

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

This exclusion applies:

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

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured

contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

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

6. Care, Custody Or Control

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

7. Handling Of Property

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

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

8. Movement Of Property By Mechanical Device

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

9. Operations

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

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

10. Completed Operations

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

In this exclusion, your work means:

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

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

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

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

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

11. Pollution

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

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

cepted by the "insured" for movement into or onto the covered "auto"; or

- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

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

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

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

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

12. War

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

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

ernmental authority in hindering or defending against any of these.

13. Racing

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

C. Limit Of Insurance

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

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

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

SECTION III - PHYSICAL DAMAGE COVERAGE

A. Coverage

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

a. Comprehensive Coverage

From any cause except:

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

b. Specified Causes Of Loss Coverage

Caused by:

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

c. Collision Coverage

Caused by:

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

2. Towing

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

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

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

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

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

4. Coverage Extensions

a. Transportation Expenses

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

b. Loss Of Use Expenses

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

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

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

(3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

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

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard

(1) The explosion of any weapon employing atomic fission or fusion; or

(2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

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

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

- a. Wear and tear, freezing, mechanical or electrical breakdown.
 - b. Blowouts, punctures or other road damage to tires.
4. We will not pay for "loss" to any of the following:
- a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
 - b. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.
 - c. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
 - d. Any accessories used with the electronic equipment described in Paragraph c. above.

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

- a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or such equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or
 - b. Any other electronic equipment that is:
 - (1) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
 - (2) An integral part of the same unit housing any sound reproducing equipment described in Paragraph a. above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.
5. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limit Of Insurance

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

D. Deductible

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

SECTION IV – BUSINESS AUTO CONDITIONS

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

A. Loss Conditions

1. Appraisal For Physical Damage Loss

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

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

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

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

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

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized

representative prompt notice of the "accident" or "loss". Include:

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

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

- (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
- (4) Authorize us to obtain medical records or other pertinent information.
- (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

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

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

3. Legal Action Against Us

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

- a. There has been full compliance with all the terms of this Coverage Form; and

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

4. Loss Payment – Physical Damage Coverages

At our option we may:

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

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

5. Transfer Of Rights Of Recovery Against Others To Us

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

B. General Conditions

1. Bankruptcy

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

2. Concealment, Misrepresentation Or Fraud

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

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

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium

charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Ballee - Physical Damage Coverages

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

5. Other Insurance

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

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

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

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

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

6. Premium Audit

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

for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

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

7. Policy Period, Coverage Territory

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

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

The coverage territory is:

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

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

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

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

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

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

Primary wording

apply as excess insurance over this Coverage Form.

SECTION V – DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Auto" means:

1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or
2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

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

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

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

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

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

cepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

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

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

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

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

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

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

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

H. "Insured contract" means:

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

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

- a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing; or
 - b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
 - c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
- I. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business.

"Leased worker" does not include a "temporary worker".

J. "Loss" means direct and accidental loss or damage.

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

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers.
5. Vehicles not described in Paragraph 1., 2., 3., or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers.
6. Vehicles not described in Paragraph 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
 - a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning;
 - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.

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

- L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- M. "Property damage" means damage to or loss of use of tangible property.
- N. "Suit" means a civil proceeding in which:
 - 1. Damages because of "bodily injury" or "property damage"; or
 - 2. A "covered pollution cost or expense",

to which this insurance applies, are alleged.

"Suit" includes:

- a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
 - P. "Trailer" includes semitrailer.